MISSISSIPPI CODE 1972
Annotated

Parks and Recreation
Planning, Research and Development

Titles 55 to 57

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MISSISSIPPI CODE

1972

ANNOTATED

ADOPTED AS THE OFFICIAL CODE OF THE
STATE OF MISSISSIPPI
BY THE
1972 SESSION OF THE LEGISLATURE

VOLUME THIRTEEN

PARKS AND RECREATION
PLANNING RESEARCH
AND DEVELOPMENT

§§ 55-1-1 to 57-117-1

CONTAINING PERMANENT PUBLIC STATUTES OF MISSISSIPPI
TO THE END OF THE 2014 REGULAR LEGISLATIVE SESSION
AND 1ST AND 2ND EXTRAORDINARY SESSIONS

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PREFACE

The Mississippi Code of 1972, which became effective on November 1, 1973, is the culmination of nearly four years of effort on the part of the Legislature, the Attorney General's office and the publishers, which brings together provisions of general statutory law having a common subject matter into a more orderly and logical framework of code titles and chapters, and employing a modern and effective section numbering system. A major by-product of the code revision will be the state-owned magnetic computer tape containing the Mississippi Code of 1972, which will be of invaluable assistance to the Legislature and to the state.

The enabling act for the code was a recommendation of the Mississippi State Bar, which resulted in the consideration and passage of Senate Bill 1964, Chapter 465, Laws of 1970, signed into law by Governor John Bell Williams.

The Code Committee provided for in that act was comprised of A. F. Summer, Attorney General, Heber Ladner, Secretary of State, Representative Edgar J. Stephens, Jr., Chairman, House Appropriations Committee, Senator William G. Burgin, Jr., Chairman, Senate Appropriations Committee, Representative H. L. Meredith, Jr., Chairman, House Judiciary "A" and Judiciary en banc Committees, Senator E. K. Collins, Chairman, Senate Judiciary "A" and Judiciary en banc Committees, Representative Ney McKinley Gore, Jr., Chairman, House Judiciary "B" Committee, and Senator William E. Alexander, Chairman, Senate Judiciary "B" Committee. In 1972, Representative Marby Robert Penton and Senator Herman B. Decell, Chairman of House and Senate Judiciary "B" Committees, respectively, became members of the Committee, replacing Representative Gore and Senator Collins, Senator Alexander having been appointed Chairman of Senate Judiciary "A" and Judiciary en banc Committees. The Deputy Attorney General, Delos H. Burks, served the Code Committee as Secretary. Special Assistant Attorney General Fred J. Lotterhos, under the supervision of the Attorney General, was assigned the principal responsibility for the supervision of the recodification, including the consideration and treatment of some 16,000 sections of code manuscript.

Final legislative approval was given to the Mississippi Code of 1972 by passage of Senate Bill 2034, Laws of 1972, which was signed by Governor William L. Waller on April 26, 1972.

The Code Committee is of the opinion that the recodification has been thoroughly and well accomplished, and will result in a greatly improved repository of the general statutory law of the state.

A. F. Summer
Attorney General

PUBLISHER'S FOREWORD

This 2014 Replacement Volume 13 of the Mississippi Code of 1972 Annotated represents material appearing in both the original 1973 bound volume and the 1996 Replacement Volume 13, the 2003 replacement volume and the 2008 Replacement Volume, as well as reflecting amendments, repeals, and new Code provisions enacted by the Mississippi Legislature through the 2014 Regular Legislative Session and 1st and 2nd Extraordinary Sessions.

This volume contains the full text of Titles 55 through 57 of the Mississippi Code of 1972 Annotated, as amended through the 2014 Regular Legislative Session and 1st and 2nd Extraordinary Sessions.

Case annotations are included based on decisions of the state and federal courts in cases arising in Mississippi. Many of these cases were decided under the former statutes in effect prior to the enactment of the Code of 1972. These earlier cases have been moved to pertinent sections of the Code where they may be useful in interpreting the current statutes. Annotations to collateral research references are also included.

To better serve our customers by making our annotations more current, LexisNexis has changed the sources that are read to create annotations for this publication. Rather than waiting for cases to appear in printed reporters, we now read court decisions as they are released by the courts. A consequence of this more current reading of cases, as they are posted online on LexisNexis, is that the most recent cases annotated may not yet have print reporter citations. These will be provided, as they become available, through later publications.

This publication contains annotations taken from decisions of the Mississippi Supreme Court and the Court of Appeals and decisions of the appropriate federal courts. These cases will be printed in the following reporters:

Southern Reporter, 3rd Series
United States Supreme Court Reports
Supreme Court Reporter
United States Supreme Court Reports, Lawyers' Edition, 2nd Series
Federal Reporter, 3rd Series
Federal Supplement, 2nd Series
Federal Rules Decisions
Bankruptcy Reporter

Additionally, annotations have been taken from the following sources:

American Law Reports, 6th Series
American Law Reports, Federal Series
Mississippi College Law Review
Mississippi Law Journal

Finally, published Opinions of the Attorney General and opinions of the Ethics Commission have been examined for annotations.

A comprehensive Index appears at the end of this volume.

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For further information or assistance, please call us toll-free at (800) 833-9844, fax us toll-free at (800) 643-1280, e-mail us at customer.support@bender.com, or write to: Mississippi Code Editor, LexisNexis, 701 E Water Streeet, Charlottesville, VA 22902-5389.

September 2014 LexisNexis

User's Guide

This guide is designed to help both the lawyer and the layperson get the most out of the Mississippi Code of 1972 Annotated. Information about key features of the Code and suggestions for its more effective use are given under the following headings:

— Advance Code Service
— Advance Sheets
— Amendment Notes
— Analyses
— Attorney General Opinions
— Code Status
— Comparable Legislation from other States
— Court Rules
— Cross References
— Editor's Notes
— Effective Dates
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— Judicial Decisions
— Organization and Numbering System
— Placement of Notes
— Replacement Volumes
— Research and Practice References
— Source Notes
— Statute Headings
— Tables

If you have a question not addressed by the User's Guide, or comments about your Code service, you may contact us by calling us toll-free at (800) 833-9844, faxing us toll-free at (800) 643-1280, e-mailing us at customer.support@bender.com, or writing to Mississippi Code Editor, LexisNexis, 701 E Water Street, Charlottesville, VA 22902-5389.

ADVANCE CODE SERVICE

Three times a year, at roughly quarterly intervals between delivery of Code supplement pocket parts, we publish the Mississippi Advance Code Service pamphlets. These pamphlets contain updated statutory material and annotations to Attorney General opinions, research and practice references, and recent court decisions construing the Code. Each pamphlet is cumulative, so that each is a "one-stop" source of case notes updating those in your Code bound volumes and pocket parts.

ADVANCE SHEETS

The Advance Sheets consist of a series of pamphlets issued in the spring. The series reproduces the acts passed by the Mississippi Legislature and approved by the Governor during the legislative session. Features include tables showing the impact of legislation on sections of the Mississippi Code of 1972 Annotated, and a cumulative index. These pamphlets enable the user to receive a preview of approved legislation prior to supplement availability, and serve as an excellent source of legislative history.

AMENDMENT NOTES

Every time a Code provision is amended, we prepare a note describing the effect of the amendment. By reading the note, you can ascertain the impact of the change without having to check the former statute itself.

Amendment notes are retained in the Supplement until the bound volume is replaced, at which time notes from all but the last two years are deleted.

Amendment notes are available online from 1991 until the present in the Mississippi Legislative Archive.

ANALYSES

Each title, chapter, and article appearing in a bound volume or supplement is preceded by an analysis. The analysis details the scope of the title, chapter, and article and enables you to see at a glance the content of the title, chapter, and article without resorting to a page-by-page examination in the bound volume or supplement.

ATTORNEY GENERAL OPINIONS

Opinions of the Attorney General for the State of Mississippi have been read for constructions of Mississippi law. Notes describing the subject matter of the opinions have been placed under relevant Code provisions under the heading "Attorney General Opinions." The citation at the end of each note refers to the person requesting the opinion, the date of the opinion, and the opinion number.

CODE STATUS

The Mississippi Code of 1972 Annotated is Mississippi's official code and is considered evidence of the statute law of the State of Mississippi (see § 1-1-8). The Code was enacted by Chapter 394 of the Laws of 1972, which was signed by the Governor on April 26, 1972.

Title 1, Chapters 1 through 5 of the Code contain statutes governing the status and construction of the Code.

COMPARABLE LEGISLATION FROM OTHER STATES

Notes to comparable legislation from other states appear for uniform laws, interstate compacts, statutory provisions pertaining to reciprocity and cooperation with other states, and various important statutes of general interest. Other states' statutes that are similar in subject matter and scope to those of Mississippi are cited, generally, under the first section of the chapter or article to which they pertain. Occasionally, comparable legislation pertains to only one section, in which case it is cited under that section rather than at the chapter or article level.

See also *Federal Aspects*.

COURT RULES

The Mississippi Court Rules are published separately by LexisNexis in a fully annotated softcover volume which is replaced annually and supplemented semi-annually.

The Court Rules volume contains statewide rules of procedure of the state courts, the local rules of the United States district courts and bankruptcy courts for Mississippi, and the rules of the United States Court of Appeals for the Fifth Circuit. Rules are received from the courts and edited only for stylistic consistency. For further information, see the Preface to the Mississippi Court Rules volume.

CROSS REFERENCES

Cross references refer you to notes under other Code sections, that may affect a law or place it in context. Cross references also are used under repealed provisions to refer you to an existing law on a similar subject. Cross references do not cite all related statutes, however, since these can be identified by using the General Index.

See also *Comparable Legislation from other States* and *Federal Aspects*.

EDITOR'S NOTES

Editor's notes are notes prepared by the Publisher that contain information about important or unusual features of a law, or special circumstances surrounding passage of the law, that are not apparent from the law's text.

See also *Effective Dates*.

EFFECTIVE DATES

Absent a specific effective date provision within an act, Mississippi laws generally take effect upon approval date, which is the date the act is signed into law by the Governor. Acts affecting voting rights and procedures take effect on the date the United States Attorney General interposes no objection under § 5 of the Voting Right Act of 1965.

FEDERAL ASPECTS

Notes to federal legislation that is similar in subject matter and scope to the laws of Mississippi are referenced throughout the Code. In addition, the Code contains the United States Code Service citation for any federal law that is referred to in a Mississippi statute by its popular name or by its session law designation.

See also *Comparable Legislation from other States*.

INDEX

The Code is completely indexed in two softcover Index volumes, which are updated and replaced annually. In addition, each volume of the Code is followed by its own index. As accurate and thorough as the Index is, your best defense against index wild goose chases is familiarity with indexing techniques. To that end, an explanatory Foreword to the Index appears in the first Index volume.

JOINT LEGISLATIVE COMMITTEE NOTES

Joint Legislative Committee notes are included in the Code to describe codification decisions made by the Mississippi Joint Legislative Committee on Compilation, Revision and Publication of Legislation. Examples of Committee actions that warrant the inclusion of a note are the integration of multiple amendments to a single Code section during the same legislative session, and the correction of typographical errors appearing in the Code.

JUDICIAL DECISIONS

Every reported case from the Supreme Court of Mississippi, the Court of Appeals of Mississippi, federal district courts for Mississippi, the federal Fifth Circuit Court of Appeals and the United States Supreme Court has been read for constructions of Mississippi law. These constructions are noted under pertinent sections of the statutes or Mississippi Constitution provisions, under the heading "Judicial Decisions." Where a decision has been reviewed by a higher court, subsequent judicial history and disposition is noted in the case note if such disposition has any bearing on the annotated material. Where two or more decisions state the same rule of law, the case citations are cumulated under one case note.

Case notes are grouped together under headings called "catchlines." The catchlines identify the basic subject matter of the case notes and assist the user in locating pertinent notes. Catchlines are numbered and arranged thematically, with "In general" first. Where there are two or more catchlines, an analysis, listing all the catchlines, precedes the annotations.

Frequently, statutes carry notes to cases that arose under earlier laws on the same subject. Case notes are retained so long as the editor believes the note will have some relevance under current law, though of course the relevance may be diminished by later changes in the law. These case notes appear under the heading "Decisions under former law."

ORGANIZATION AND NUMBERING SYSTEM

The Code is organized by titles, chapters, articles, subarticles, undesignated centered headings and sections. Analyses at the beginning of each title, chapter, article, and subarticle help you understand the internal arrangement of each Code unit (see *Analyses*).

Odd numbers are generally used for the numbering of titles, chapters and sections. Even numbers have been used for some chapters and sections so that a particular new chapter or section might be logically placed with other chapters and sections dealing with the same or similar subject matter. Similarly, the use of numbers with decimal points has been used for some sections in order that they may be inserted among other sections pertaining to the same subject.

The title, chapter, and section for each Code section is revealed by its section number. Thus, in the designation "§ 1-3-65," the first digit ("1") means the provision is in Title 1 ("Laws and Statutes"); the second ("3") indicates Chapter 3 ("Construction of Statutes"); and the last two digits ("65") mean the 65th section in that chapter ("Construction of terms generally").

Articles and subarticles are not reflected by section number designations.

Within sections, subsections and paragraphs usually are designated following this pattern: (1)(a)(i)1. or (1)(a)(i)A. A distinctive indention scheme is applied to suggest the relative value of each unit within this hierarchy.

PLACEMENT OF NOTES

Where a note pertains to a single statute section, it will of course be set out following that section. In many instances, however, a note applies equally to several statute sections or to an entire chapter or article. If the pertinent sections are scattered, or few in number, the note will be duplicated for each section. But where the note applies to all or most of the sections in a chapter or article, we prevent the space-consuming repetition of notes by placing the note at the very beginning of the chapter or article.

REPLACEMENT VOLUMES

The Code is periodically updated and streamlined by the replacement of volumes. Although a current set of the Code contains all currently applicable statutes, we encourage you to retain replaced volumes and their supplement pockets parts for historical reference.

RESEARCH AND PRACTICE REFERENCES

Citations to references in American Jurisprudence, American Jurisprudence Pleading and Practice, American Jurisprudence Proof of Facts, American Jurisprudence Trials, American Law Reports, First through Sixth Series, ALR Federal, Corpus Juris Secundum, various other treatises and practice guides, and Mississippi law journals are given under this heading, wherever the references appear to discuss the statute under which the citation appears, or a topic related to the statute. These citations are intended only to give you a starting point for your library research. The Mississippi law journals include Mississippi Law Journal and Mississippi College Law Review.

SOURCE NOTES

Each section of the Code is followed by a brief note showing the acts of the Legislature on which it is based, including the act that originally enacted the section and any subsequent amendments.

The source note follows the section text, preceding any other annotations for the section. Information in the source note is listed in chronological order, with the most recent information listed last. If a section has been renumbered, the former number will appear in the source note. :

The tables volume should also be consulted when researching the history of a statutory section, since it contains cross reference tables that provide a statutory citation for each section of the session laws and the date each act went into effect.

STATUTE HEADINGS

Headings or "catchlines" for Code sections and subsections are generally created and maintained by the publisher. They are mere catchwords and are not to be deemed or taken as the official title of a section or as a part of the section. Your suggestions for the improvement of particular catchlines are invited.

TABLES

The Mississippi Code of 1972 Annotated contains several tables that can assist you in your research. These are published in the Statutory Tables volume of the Code, and include the following:

- Sections of the Code of 1930 carried into the Code of 1942.
- Sections of the Code of 1942 carried into the Code of 1972.
- Allocation of Acts of Legislature, 1931 — 1972.
- Allocation of Acts of Legislature, 1972 — present.
- Consolidated Tables of amendments and repeals of 1942 Code sections.

- Consolidated Tables of amendments and repeals of 1972 Code sections.

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CHAPTER 1

Mississippi Recreational Advisory Council [Repealed]

§§ 55-1-1 through 55-1-9. Repealed.

Repealed by Laws, 1981, ch. 312, § 1 eff from and after passage (approved March 2, 1981).

[Codes, 1942, §§ 5974-101, 102, 108-110; Laws 1966, ch. 282, §§ 1, 2, 8-10]

Editor's Note — Former Sections 55-1-1 through 55-1-9 related to the Mississippi Recreational Advisory Council.

CHAPTER 3

State Parks and Forests

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§ 55-3-1. Gifts of land for state forests and parks.

The governor of the state is authorized to accept gifts of land to the state, not to exceed ten percent (10%) of the area of any county, to be held, protected, and administered by the State Forestry Commission as state forests and parks and to be used to demonstrate their practical utility for reforestation and as breeding places for wild game, and he is authorized to accept gifts of land to be used and administered by the commission as state parks. Such gifts must be absolute, except for the reservation of any or all mineral rights, and in no case shall exceed ten percent (10%) of the area of any county wherein such lands may be situated. The Attorney General is directed to see that all deeds to the state are properly executed and that the titles thereto are free and clear of all encumbrances before the gift is accepted. When any donation exceeding six hundred acres is made, the name of the donor or any name he may suggest, on the approval of the commission shall be given such donation as the designation of such forest or park.

SOURCES: Codes, 1930, § 6166; 1942, § 6024; Laws, 1926, ch. 161.

Cross References — Giving of opinions in writing by Attorney General, see § 7-5-25.

Counties conveying land for state park purposes leasing retained mineral interests, see § 19-7-21.

Governor to close state parks, see § 55-3-101.

JUDICIAL DECISIONS

1. In general.

Power of a county which has purchased and conveyed land to the state for a state park under authority of Code 1942, § 6037, to reserve to itself all the minerals therein under this section [Code 1942, § 6024], does not confer implied power upon the county to convey to private party the minerals in such land. Pike County v. Bilbo, 198 Miss. 775, 23 So. 2d 530 (1945), suggestion of error sustained in part, overruled in part, 198 Miss. 775, 23 So. 2d 672 (1945).

Land which was never used for county purposes until purchased by county for purpose of immediate conveyance to the state for a state park under authority of Code 1942, § 6037, and which thereafter was used by the county as contemplated in its purchase, did not "cease" to be used for county purposes within the meaning of Code 1942, § 2892 authorizing board of supervisors to sell real estate belonging to the county when it shall "cease to be used for county purposes," and consequently board of supervisors did not have express authority to convey to private party the oil and other minerals in part of such land, even though in the conveyance to the state the county had reserved to itself all the oil and other mineral rights in such lands. Pike County v. Bilbo, 198 Miss. 775, 23 So. 2d 530 (1945), suggestion of error sustained in part, overruled in part, 198 Miss. 775, 23 So. 2d 672 (1945).

§ 55-3-2. Definitions.

For purposes of Chapter 3, Title 55, Mississippi Code of 1972, the following words shall have the meanings ascribed herein unless the context otherwise requires:

(a) "Commission" means the Mississippi Commission on Wildlife, Fisheries and Parks.

(b) "Department" means the Mississippi Department of Wildlife, Fisheries and Parks.

(c) "Executive director" means the Executive Director of the Mississippi Department of Wildlife, Fisheries and Parks.

SOURCES: Laws, 2000, ch. 516, § 100, eff from and after passage (approved Apr. 30, 2000.)

Cross References — Mississippi Department of Wildlife, Fisheries and Parks and Mississippi Commission on Wildlife, Fisheries and Parks generally, see §§ 49-4-1 et seq.

§ 55-3-3. Reconveyance to donor, heirs, etc., of unused lands donated to state.

(1) Where any land has been donated to the state and a deed thereof has been accepted by the governor, for the purpose of establishing thereon state forests and parks in accordance with the provisions of Section 55-3-1, and the state forestry commissioner certifies in writing to the secretary of state that the land has not been used as a part of any state forest or park for a period of time not less than five (5) years from the date of conveyance of said land, the secretary of state is authorized and empowered, in his discretion, with the

approval of the governor to reconvey the land to the donor, his heirs, representatives or assigns.

(2) The price to be paid by the donor, his heirs, representatives or assigns, upon the reconveyance of said land shall be sufficient to cover the nominal consideration paid by the state for the land originally, if there be any such consideration, together with the cost of any improvements placed by the state or any agency thereof upon the land, and any sums of money expended in caring for and maintaining the land or any other expense incurred by the state or any agency thereof in connection therewith.

(3) The deed from the state to the donor, his heirs, representatives or assigns, shall state the true consideration therefor, and where made in good faith by all parties, shall convey the entire right, title and interest of the state therein.

(4) Any such deed from the state to the donor, his heirs, representatives or assigns, shall be recorded at the expense of the donor, his heirs, representatives or assigns, in the office of the chancery clerk of the county in which the land is located, and a failure to so record the deed shall render the same void.

SOURCES: Codes, 1942, § 6024.5; Laws, 1952, ch. 194, §§ 1-4; Laws, 1978, ch. 458, § 25, eff from and after January 1, 1980.

Cross References — State Forestry Commission, see § 49-19-1 et seq.
Sale or exchange of certain state park lands, see § 55-3-47.

§ 55-3-5. Survey of state land.

The department is authorized to survey, or cause to be surveyed, all areas of land owned by the state for the purpose of determining the adaptability of such areas for use as state parks, state forests and/or game and fish preserves to be developed for the control of stream flow and erosion, recreation, game and fish refuges or preserves, forest preserves, and for other similar uses.

SOURCES: Codes, 1942, § 6033; Laws, 1934, ch. 153; Laws, 1987, ch. 371, § 1; Laws, 2000, ch. 516, § 101, eff from and after passage (approved Apr. 30, 2000.)

Cross References — Creation, composition, powers, and duties of state forestry commission, see §§ 49-19-1 et seq.
Appointment of state forester, see § 49-19-3.
Disposition of revenues from fish and game refuges and preserves, see § 55-3-15.
Creation, composition, powers, and duties of Mississippi Department of Wildlife, Fisheries and Parks, see §§ 55-3-31 et seq.
Mississippi Transportation Commission authorized to make surveys, investigations, etc., in connection with any proposed national parkway, see § 55-5-23.

§ 55-3-7. Transfer and dedication of lands for use as state forests, parks, etc.

The commission shall investigate and determine whether or not the public interests may be served by the utilization of any lands owned by the State of

Mississippi, for state forests, parks, game and fish preserves, recreation centers, and for other public purposes, and the findings of the commission shall be submitted to the board of supervisors of the county wherein such lands lie. Thereupon the clerk of the board of supervisors shall post, or cause to be posted, in three (3) public places in said county, one (1) of which shall be the courthouse of said county, a notice setting out the findings of the commission and describing the lands involved and reciting that a hearing will be had before said board at its first regular meeting held after the expiration of twenty-one (21) days from the date of posting such notice, and that at such meeting any objections to the proposed transfer and dedication will be heard. Furthermore, the chancery clerk shall send by registered mail, with a return receipt requested, a copy of such notice to each person shown by the assessment rolls to have been the owner or of any of the lands concerned should such lands have been sold for taxes. However, any irregularity in the giving of such notice, either by posting or by mail, shall not invalidate any transfer or dedication made. After such hearing, the board of supervisors shall spread its findings upon its minutes, and if the transfer and dedication be approved, a certified copy of such findings shall be forwarded to the commission. The commission upon receipt of such resolution shall forward the same, together with its findings as to the description of such transfer and dedication, to the Governor. If he finds that the board of supervisors of the county wherein such lands lie has approved such transfer and dedication, he may, in his discretion, set aside and dedicate any lands owned by the state for such purposes above mentioned. After the Governor has proclaimed, set aside and dedicated any lands for such purposes, the same shall not thereafter be sold. However, no lands forfeited to the state for nonpayment of taxes thereon shall be so transferred and dedicated until after the expiration of eighteen (18) months after the date of maturity of such tax titles in the state.

SOURCES: Codes, 1942, § 6034; Laws, 1934, ch. 153; Laws, 1987, ch. 371, § 2; Laws, 2000, ch. 516, § 102, eff from and after passage (approved Apr. 30, 2000.)

Cross References — State Forestry Commission, see § 49-19-1 et seq.

Survey of state land to determine the adaptability of the land for use as state park, state forest, etc., see § 55-3-5.

Control and management of lands set aside and dedicated as provided for in this section, see § 55-3-11.

RESEARCH REFERENCES

ALR. Construction of highway through park as violation of use to which park property may be devoted. 60 A.L.R.3d 581.

§ 55-3-9. Exchange of lands by state and private landowner.

If in the opinion of the commission, it is necessary to consolidate state lands for more economical administration as state parks and state forests, the

Secretary of State, by and with the approval of the Governor, is authorized to exchange with individuals or corporations any state lands for other lands owned by individuals or corporations. The owner of such private lands shall make application for such exchange. In event such exchange is applied for, the Secretary of State is authorized to issue a patent, as provided by the existing statutes, to any landowner, upon the execution and delivery by the landowner of a deed conveying to the state land of equivalent value.

SOURCES: Codes, 1942, § 6035; Laws, 1934, ch. 153; Laws, 1987, ch. 371, § 3; Laws, 2000, ch. 516, § 103, eff from and after passage (approved Apr. 30, 2000.)

§ 55-3-11. Control and management of lands.

The State Forestry Commission shall have the control and management of any and all forests or public parks set aside and dedicated as provided for in Section 55-3-7, and shall have authority to issue grazing or farming permits or leases on said parks, and to make sales of timber and other forest products of the soil from same. The Mississippi Commission on Wildlife, Fisheries and Parks shall have the control and management of any and all lands set aside and dedicated for a fish and game refuge and/or preserve. The State Forestry Commission and the Mississippi Commission on Wildlife, Fisheries and Parks shall cooperate in the utilization of any lands so dedicated both for forestry and game and fish conservation purposes.

In the case of state forests and/or state parks the State Forestry Commission, and, in the case of fish and game preserves, the Mississippi Commission on Wildlife, Fisheries and Parks, is hereby vested with authority to institute proceedings against trespassers and others in the name of the State of Mississippi, and to do all things necessary and proper to obtain the most complete and advantageous developments of state forests, parks, and fish and game preserves.

SOURCES: Codes, 1942, § 6036; Laws, 1934, ch. 153; Laws, 2000, ch. 516, § 104, eff from and after passage (approved Apr. 30, 2000.)

Cross References — State Forestry Commission, see § 49-19-1 et seq.
Prohibition of surface mining on state park lands, see § 53-7-49.
Penalties for cutting down, deadening, or the like, trees on state lands, see § 95-5-27.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds §§ 10-12.

§ 55-3-13. Purchase or condemnation by counties of lands to be given to state; source of funds.

The board of supervisors of any county in the state is hereby authorized and empowered to purchase or acquire by eminent domain land to be conveyed to the state for state parks, forests and other purposes, as herein provided, and, for that purpose, is authorized and empowered to set aside, appropriate and expend moneys from the general fund. Said board shall have the authority to borrow money to make any such purchases of lands, in anticipation of the collection of taxes for the payment thereof. However, no lands occupied as a bona fide homestead shall be subjected to such power of eminent domain.

SOURCES: Codes, 1942, § 6037; Laws, 1934, ch. 153; Laws, 1935, ch. 54; Laws, 1986, ch. 400, § 40, eff from and after October 1, 1986.

Cross References — How right of eminent domain is to be exercised, see § 11-27-1.

General jurisdiction and powers of county boards of supervisors, see § 19-3-41.

Levy of forest acreage tax by county boards of supervisors, see § 49-19-115.

Exercise of eminent domain when federal and state governments are establishing major park, see § 55-3-19.

Appropriations and donations by board of supervisors for support of state park within county, see § 55-3-61.

JUDICIAL DECISIONS

1. In general.

Power of a county which has purchased and conveyed land to the state for a state park under authority of this section [Code 1942, § 6037], to reserve to itself all the minerals therein under Code 1942, § 6024, does not confer implied power upon the county to convey to private party the minerals in such land. Pike County v. Bilbo, 198 Miss. 775, 23 So. 2d 530 (1945), suggestion of error sustained in part, overruled in part, 198 Miss. 775, 23 So. 2d 672 (1945).

Land which was never used for county purposes until purchased by county for purpose of immediate conveyance to the state for a state park, and which thereafter was used by the county as contemplated in its purchase, did not "cease" to be used for county purposes within the meaning of Code 1942, § 2892 authorizing board of supervisors to sell real estate belonging to the county when it shall "cease to be used for county purposes," and consequently board of supervisors did not have express authority to convey to private party the oil and other minerals in part of such land, even though in the conveyance to the state the county had reserved to itself all the oil and other mineral rights in such lands. Pike County v. Bilbo, 198 Miss. 775, 23 So. 2d 530 (1945), suggestion of error sustained in part, overruled in part, 198 Miss. 775, 23 So. 2d 672 (1945).

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain § 73.

CJS. 29A C.J.S., Eminent Domain § 58.

§ 55-3-15. Disposition of revenues.

Seventy-five percent (75%) of the gross revenue derived from state forests shall be paid into the State Treasury to the credit of the general fund. Twenty-five percent (25%) derived from state forests shall be paid into the school fund of the county from which the revenue is derived, payment being made to the county as compensation for possible loss of revenue. Seventy-five percent (75%) of the gross revenue derived from fish and game refuges and/or preserves created and established by the Department of Wildlife, Fisheries and Parks in conjunction with the commission created in Section 55-3-5 shall be paid to the fisheries and wildlife fund of the state to be expended as other funds of the Department of Wildlife, Fisheries and Parks are expended, and twenty-five percent (25%) of such gross revenue shall be paid into the school fund of the county from which the revenue is derived.

SOURCES: Codes, 1942, § 6038; Laws, 1934, ch. 153; Laws, 1982, ch. 365, § 11; Laws, 1995, ch. 438, § 1, eff from and after July 1, 1995.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in the second sentence. The words "fish and games refuges" were changed to "fish and game refuges". The Joint Committee ratified the correction at its May 20, 1998 meeting, and the section has been reprinted in the supplement to reflect the corrected language.

Cross References — Fisheries and Wildlife Fund, see § 49-5-21.
State Forestry Fund, see § 49-19-15.
Mississippi Park Fund, see § 55-3-41.
Mississippi Outdoor Recreation Fund, see § 55-3-79.

§ 55-3-17. Transfer of lands by drainage districts.

Any drainage district, acting through the drainage commissioners of said district, as organized and provided in Title 51, Chapters 27, 29, 31, of the Mississippi Code of 1972, is hereby authorized, in its discretion, to transfer to the State of Mississippi, free of any and all liens, any lands purchased by such drainage district for nonpayment of taxes. However, no such transfer shall be made except that it be stated in the deed of conveyance that the lands so transferred shall be dedicated and used by the State of Mississippi as provided in Sections 55-3-5 through 55-3-15.

SOURCES: Codes, 1942, § 6040; Laws, 1934, ch. 232.

§ 55-3-19. Exercise of power of eminent domain when federal and state governments are establishing major park and forest and game reserve.

Where the federal government and the state government or any subdivision thereof are cooperating in the establishment of a major park and forest and game reserve, and where the property owners in the territory therein involved have agreed to convey as much as fifty percent (50%) of the area required for said purposes, the State Forestry Commission, together with the Mississippi Commission on Wildlife, Fisheries and Parks or any subdivision of the state, are hereby empowered to exercise the right of eminent domain in the manner now provided by law to obtain the necessary lands needed.

SOURCES: Codes, 1942, § 6045; Laws, 1938, Ex. ch. 37; Laws, 2000, ch. 516, § 105, eff from and after passage (approved Apr. 30, 2000.)

Cross References — How right of eminent domain is to be exercised, see § 11-27-1.

State Forestry Commission, see § 49-19-1 et seq.

Exercise of eminent domain by county seeking to convey land to state for state parks and the like, see § 55-3-13.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain § 73.

CJS. 29A C.J.S., Eminent Domain § 58.

§ 55-3-21. Kurtz State Forest.

There is hereby established in the State Treasury a revolving fund to be used by the State Forestry Commission to carry out the provisions of the will of William W. Kurtz, dated July 12, 1940, which donated one thousand seven hundred sixty (1,760) acres of forestland in Greene County to the State of Mississippi to be held, protected, administered and improved by the State Forestry Commission as a state forest. The fund shall be called the Kurtz State Forest Revolving Fund, and money for the fund shall accrue from any revenues derived from the Kurtz State Forest including, but not limited to, timber sales, hunting leases, permit fees, and stump and naval stores operations. The State Forestry Commission is authorized to expend a portion of the moneys in the fund to purchase in the name of the State of Mississippi other lands, not to exceed five hundred (500) acres, which are contiguous to or located near the lands donated by the Kurtz will, for the purpose of expanding the Kurtz State Forest. The State Forestry Commission also may expend moneys in the fund for the purposes described in Section 55-3-23. The State Treasurer shall invest all moneys in the fund, and interest earned on the investments shall be paid back into the fund and not into the General Fund. The fund shall be audited annually by the State Auditor.

SOURCES: Laws, 1985, ch. 430; Laws, 1993, ch 622, § 2, eff from and after passage (approved April 12, 1993).

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

Cross References — State Forestry Commission, see § 49-19-1 et seq.

§ 55-3-23. Maintenance of cemetery where donors of Kurtz State Forest buried.

The Mississippi Forestry Commission is authorized, annually, to pay to the State Line Cemetery Association, out of the proceeds and receipts derived from timber sales in the Kurtz State Forest, an amount not to exceed Two

Hundred Dollars ($200.00) for the upkeep of the cemetery in which W. W. Kurtz and wife, the donors of Kurtz State Forest, are buried.

SOURCES: Laws, 1955, ch. 253; Laws, 1993, ch 622, § 1, eff from and after passage (approved April 12, 1993).

Cross References — State Forestry Commission, see § 49-19-1 et seq.

POWERS AND DUTIES OF MISSISSIPPI DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS

Sec.
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55-3-61. Appropriations and donations by county boards of supervisors for park purposes.
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55-3-67. Samuel Dale historical monument.
55-3-69. Comprehensive long-range plan for development of state outdoor recreation resources.
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55-3-75. Projects to be undertaken only if funds are available.
55-3-77. Agreements with United States on behalf of counties, municipalities and other governmental units.
55-3-79. Outdoor Recreation Fund.
55-3-81. Functions and jurisdiction of state agencies unaffected by Sections 55-3-69 through 55-3-79.
55-3-83. Yocona Ridge State Park renamed George Payne Cossar State Park.

§ 55-3-31. Mississippi Department of Wildlife, Fisheries and Parks to be Mississippi Commission on Natural Resources, Bureau of Recreation and Parks; references to Mississippi Park Commission.

(1) The Mississippi Department of Wildlife, Fisheries and Parks shall be the Mississippi Commission on Natural Resources, Bureau of Recreation and Parks, and shall retain all powers and duties granted by law to the Department of Natural Resources, Bureau of Recreation and Parks, and wherever the term Department of Natural Resources, Bureau of Recreation and Parks, appears in any law it shall mean the Department of Wildlife, Fisheries and Parks.

(2) The words "Mississippi Park Commission," wherever they may appear in the laws of the State of Mississippi, shall be construed to mean the Mississippi Department of Wildlife, Fisheries and Parks.

SOURCES: Codes, 1942, § 5958-01; Laws, 1971, ch. 492, § 1; Laws, 1978, ch. 484, § 41; Laws, 1989, ch. 544, § 122, eff from and after July 1, 1989.

Editor's Note — Section 49-2-6 provides that wherever the term "Mississippi Commission on Natural Resources" appears in any law the same shall mean the Mississippi Commission on Environmental Quality.

Section 49-2-7 provides that wherever the term "Mississippi Department of Natural Resources" appears in any law the same shall mean the Department of Environmental Quality.

Cross References — General provisions regarding the reorganization of the executive branch of government, see §§ 7-17-1 et seq.

Transfer of functions of Commission on Natural Resources to Commission on Environmental Quality, see § 49-2-6.

Mississippi Department of Wildlife, Fisheries and Parks, see § 49-4-6.

Creation, composition, powers, and duties of state forestry commission, see §§ 49-19-1 et seq.

Surface mining and reclamation of land, see §§ 53-7-1 et seq.

Creation, composition, powers, and duties of commission on study of use of state land, see §§ 55-3-5 et seq.

Transfer of duties and responsibilities of Brice's Crossroads-Tupelo Battlefield Commission to Department of Wildlife, Fisheries and Parks, see § 55-15-1.

Transfer of duties and responsibilities of Confederate Monumental Park Commission to Department of Wildlife, Fisheries and Parks, see § 55-15-43.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds §§ 12-47.

CJS. 81A C.J.S., States § 251.

§ 55-3-33. General powers and duties of department.

(1) The Mississippi Department of Wildlife, Fisheries and Parks may:

(a) Take charge and have full jurisdiction and control over all state parks, which parks shall be operated for the purpose of providing outdoor recreational activities and enjoyment for the citizens of the State of Mississippi and for the purpose of attracting visitors to the state.

(b) Set up a uniform accounting procedure for the state parks and prescribe the manner in which books, records and accounts shall be kept, which procedure shall account for all monies taken in and expended by the various parks and shall provide for periodic audits of such books.

(c) Accept gifts, bequests of money or other property, real or personal, to be used for the purpose of advancing the recreation and conservation interests in state parks. The department is authorized, subject to approval by the State Legislature, to purchase property, real or personal, to be used for state park purposes.

(d) Contract with the State Transportation Commission, any municipality or board of supervisors of the state for locating, constructing and maintaining roads and other improvements in state parks and for payment of a part of the costs thereof; however, no county or municipality more than twenty-five (25) miles distant from a state park may contract for, or do, or pay for any such work for a state park other than the International Gardens of Mississippi. Any county or municipality authorized to assist financially under the provisions of Sections 55-3-31 through 55-3-51 is authorized, in the discretion of its respective governing authority, to set aside, appropriate and expend monies from the General Fund for the purpose of defraying such expense after a mandatory election is held on the question within the county or municipality.

(e) Designate employees as peace officers with power to make arrests for infraction of the rules and regulations of the department. Such officers are authorized to carry weapons and to enforce the laws of the State of Mississippi within the confines of a state park.

(f) Enforce and delegate the responsibility to enforce all reasonable rules and regulations governing the occupancy and use of lands and waters in state parks under its jurisdiction, supply recreational and conservation facilities and charge fees for the use of same; review all rates and charges for facilities and accommodations furnished at the various state parks annually, making such charges as are justified; and establish fees for entrance to state parks.

(g) To periodically establish a discounted fee or fees for the entry and use of selected state parks and recreational facilities. The discounted fee or fees shall only be used for the purpose or purposes of marketing and promotion to increase the patronage and revenue of those selected parks and facilities. The discounted fee or fees shall not be considered a donation of state property.

Each park shall retain from revenues generated therein, a sum sufficient to pay necessary expenses of operation, but in no event to be less than seventy-five percent (75%) of such revenues.

(2) The department shall have the authority to lease to any entity, sell and convey or otherwise transfer to any county or municipality, or close any state park or historical site within its jurisdiction which received a general fund

subsidy in fiscal year 1985 in excess of Two Dollars ($2.00) per visitor to such state park or historical site; provided, however, that this authority shall not include the authority to sell, lease or convey any park that was not in operation under the jurisdiction of the department for a full fiscal year prior to fiscal year 1986.

(3) The department may execute agreements with rails-to-trails and recreational districts by which the department will assume responsibility for the operation and maintenance of trails developed under Sections 55-25-1 through 55-25-15.

(4)(a) The department may contract with the electric public utility with a certificate of public convenience and necessity to serve the area where a state park is located for the transfer of ownership of the electrical infrastructure in the state park to that electric public utility.

(b) If the electric public utility enters into an agreement for the operation and maintenance of electrical facilities in a state park, the electric public utility may perform any upgrades to the electrical infrastructure of the park that are necessary for the electrical infrastructure to be in compliance with the electric public utility standards. The electric public utility may assess the costs of the upgrades to the department upon the terms and conditions agreed to by the department and the electric public utility.

(c) The department may contract with the electric public utility with the certificate of public convenience and necessity to serve the area for the erection, construction, maintenance, operation and control of electric distribution substations, electric transmission lines, electrical appurtenances, electrical appliances or electrical equipment necessary or useful in the operation or distribution of electric power or energy in the state park.

(d) Any agreement entered into by the department and an electric public utility under this subsection is exempt from the public purchasing requirements under Section 31-7-13.

SOURCES: Codes, 1942, § 5958-02; Laws, 1971, ch. 492, § 2; Laws, 1972, ch. 340, § 3; Laws, 1986, ch. 400, § 41; Laws, 1986, ch. 500, § 42; Laws, 1989, ch. 544, § 123; Laws, 1994, ch. 574, § 9; Laws, 2010, ch. 367, § 1; Laws, 2013, ch. 466, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment substituted "may" for "shall have the power and authority, and it shall be its duty to" at the end of (1); and added (4).

Cross References — Mississippi Department of Wildlife, Fisheries and Parks generally, see § 49-4-6.

Transfer of all powers, duties employees, equipment, buildings, facilities, inventory and resources of the marine law enforcement division of Department of Wildlife, Fisheries and Parks to Department of Marine Resources, see § 49-15-11.

Authority of department to sell and convey or otherwise transfer any state park or historical site pursuant to this section, see § 55-3-47.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 12.

§§ 55-3-35 through 55-3-39. Repealed.

Repealed by Laws, 1978, ch. 484, § 42, eff from and after July 1, 1979.

§ 55-3-35. [Codes, 1942, § 5958-03; Laws, 1971, ch. 492, § 3]

§ 55-3-37. [Codes, 1942, § 5958-05; Laws, 1971, ch. 492, § 5]

§ 55-3-39. [Codes, 1942, §§ 5958-03, 5958-04; Laws, 1971, ch. 492, §§ 3, 4]

Editor's Note — Former § 55-3-35 related to the selection of an executive director for the Mississippi Park Commission.

Former § 55-3-37 related to the duties and responsibility of the executive director of the Mississippi Park Commission.

Former § 55-3-39 related to employees of the park commission.

§ 55-3-41. Mississippi Park Fund.

A fund to be known as "Mississippi Park Fund" is hereby established in the State Treasury, and all funds held in the "Mississippi Park System Fund" shall be transferred thereto.

Funds collected by the department shall be deposited in the State Treasury to the credit of the fund. The interest from the Mississippi Park Fund earned from any investment or deposit made pursuant to Section 27-105-33, Mississippi Code of 1972, shall be credited to the Mississippi Park Fund by the treasurer. Expenditures shall be made from the fund upon requisition signed by the executive director, or by a person whom the executive director may designate and the State Fiscal Officer shall issue his warrant on the State Treasury payable out of the Mississippi Park Fund. All funds in the Mississippi Park Fund shall be expended only pursuant to appropriation approved by the Legislature and as provided by law.

SOURCES: Codes, 1942, § 5958-01; Laws, 1971, ch. 492, § 1; Laws, 1974, ch. 462; Laws, 1984, ch. 488, § 236; Laws, 1992, ch. 435 § 1, eff from and after passage (approved May 4, 1992).

Editor's Note — Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

Cross References — Issuance, signing, and delivery of state warrants, see § 7-7-35.

State game and fish protection fund, see § 49-5-21.

State forestry fund, see § 49-19-15.

Deposit in the Mississippi Park Fund of revenues derived from the lease or conveyance of state park or historical site property or portions thereof, or from the granting of easements with respect to such property, see § 55-3-47.

Mississippi Outdoor Recreation Fund, see § 55-3-79.

§ 55-3-43. Repealed.

Repealed by Laws, 1983, ch. 469, § 10, eff from and after July 1, 1983. [Codes, 1942, § 5958-03; Laws, 1971, ch. 492, § 3]

Editor's Note — Former § 55-3-43 related to the granting of concessions to park rangers and other Mississippi Park Commission employees.

§ 55-3-45. Local advisory committees.

The commission may appoint for each state park a local advisory committee to furnish counsel and advice to the executive director and to park personnel concerning the operation and development of said park. The committee is to serve without pay.

SOURCES: Codes, 1942, § 5958-08; Laws, 1971, ch. 492, § 8; Laws, 2000, ch. 516, § 106, eff from and after passage (approved Apr. 30, 2000.)

Cross References — Commission on study of use of state lands, see § 55-3-5.

§ 55-3-47. Leasing and conveyance of easements and rights-of-way; settlement of title or boundary disputes; sale or exchange of certain state park lands; disposition of revenues.

(1) In order to carry out its management responsibilities over all state park lands which are now or which may hereafter come under its jurisdiction, the Mississippi Department of Wildlife, Fisheries and Parks is hereby authorized to lease, and to grant easements and rights-of-way over and across, any part of such state park lands. Such leases, easements and rights-of-way may be granted for such consideration, and upon such terms and conditions, as the department may deem to be in the best interest of the state, consistent with the use of said lands for recreational purposes, and subject to the following limitations: The department shall lease such lands for a term not exceeding twenty-five (25) years and shall grant in the original lease contract a nonnegotiable option to renew such lease for an additional term not to exceed twenty-five (25) years. Both the original lease contract and the option to renew such lease shall be transferable contracts. Further, the department shall not lease such lands for purposes which are incompatible with recreational use and may place such terms, limitations, restrictions and conditions in such leases as are deemed necessary to ensure the proper utilization of such lands. Any easement for a utility line shall be granted for that period of time which the department deems to be in the best interest of a state park.

(2) The department is further authorized to enter into such agreements as may be required, upon such terms as may be found to be in the best interest of the state, in settlement of disputes or litigation regarding the title to or boundaries of any state park lands within the jurisdiction of the department, provided such settlement agreements shall be negotiated and drafted with the

advice, counsel and assistance of the Attorney General and shall be approved by the Department of Finance and Administration.

(3) In case any of the real estate within any state park under the jurisdiction of the department shall cease to be used or useful for state park purposes, or becomes the subject of boundary or title disputes or litigation, the department may sell and convey the same, with the approval of the Department of Finance and Administration, upon such terms as the Department of Finance and Administration may elect and may, in addition, exchange the same, with the approval of the department, for real estate belonging to any other political subdivision or state, county or local governmental agency or department. The department is authorized to sell and convey or otherwise transfer any state park or historical site as described in subsection (2) of Section 55-3-33. Before any such sale or transfer, except as may occur in settlement of title or boundary disputes or litigation, the department shall publish notice of its intention to sell the park land by public sale to the highest and best bidder at least once each week for three (3) consecutive weeks in at least one (1) public newspaper of general circulation in the county where such land is located and also in at least one (1) newspaper of general circulation throughout the state. Prior to any such sale, the department shall obtain at least two (2) separate and independent appraisals of the land to be sold and may not accept any bid lower than the average of all appraisals made. The department may reject any and all bids. The owner or any co-owner of record next preceding the state in title to any lands sold hereunder by public bid, excluding any entity which may have exercised the power of eminent domain to assist the state in acquiring said lands, shall have the opportunity to reacquire such lands by matching the successful bid therefor. If the owner or any co-owner of record next preceding the state in title, or the heirs or estate of such owner or co-owner, acquires said lands, then the department shall not reserve unto the state any minerals owned by the state underlying the conveyed lands. However, if anyone other than such owner or co-owner, or his heirs or estate, acquires said lands, then the department shall reserve unto the state one-half (½) of the minerals owned by the state underlying the conveyed lands, except for lands sold in settlement of title or boundary disputes or litigation, in which case the department may, in its discretion, reserve said minerals. Appraisal fees shall be shared equally by the department and purchaser.

(4) In exercising the authority granted in this section, the department may act by and through its executive director in the execution of any document or instrument prepared hereunder. Any lease, deed or settlement agreement executed under the provisions of this section shall bear the seal and attest of the Secretary of State, with whom said instrument or document shall be filed and recorded in addition to any other recording requirements of state law.

This section shall not apply to sixteenth section school lands or lieu lands included within any state park, except as may be necessary or appropriate for the department to ratify or confirm any action taken by the agency or department having jurisdiction over such school or lieu lands.

All revenues collected by the department by virtue of any transaction consummated under the provisions of this section shall be deposited in the Mississippi Park Fund created by Section 55-3-41, from which funds shall be expended only as authorized by the legislative appropriations process.

(5) This section shall not apply to the donation and conveyance of the Nanih Waiya State Park to the Mississippi Band of Choctaw Indians.

SOURCES: Codes, 1942, § 5958-09; Laws, 1971, ch. 492, § 9; Laws, 1984, ch. 494; Laws, 1986, ch. 500, § 43; Laws, 1987, ch. 377; Laws, 1989, ch. 544, § 124; Laws, 2007, ch. 310, § 4, eff from and after passage (approved Mar. 12, 2007.)

Editor's Note — Laws of 2007, ch. 310, §§ 1 and 2, provide as follows:

"SECTION 1. The Legislature finds that in 2004 several state parks were requiring substantial subsidies from the General Fund, and the Mississippi Commission on Wildlife, Fisheries and Parks was directed to promptly dispose of those parks through closure, lease, sale or transfer. The Nanih Waiya State Park was one of those state parks to be promptly disposed of by the commission. Nanih Waiya is the site of a sacred mound of the Choctaw Nation and on lands ceded to the United States by the Choctaw Nation under the Treaty of Dancing Rabbit Creek. The Nanih Waiya Mound is venerated by the Choctaws and the site is considered to be the birthplace of the Choctaws. The Mississippi Band of Choctaw Indians desires to have this site of great historical significance to the Choctaws returned to them. The Legislature finds that it is in the public interest to return this historical site of the Choctaw Indians to the Mississippi Band of Choctaw Indians.

"SECTION 2. The Commission on Wildlife, Fisheries and Parks and the Department of Wildlife, Fisheries and Parks shall take any and all actions necessary to donate and to convey the Nanih Waiya State Park to the Mississippi Band of Choctaw Indians. The executive director of the department is authorized to execute any document or instrument to accomplish the donation and conveyance of the park."

Cross References — Mississippi Department of Wildlife, Fisheries and Parks generally, see § 49-4-6.

Reconveyance of certain donated lands to donor, heirs, etc., see § 55-3-3.

Transfer of functions of Commission on Environmental Quality, Bureau of Recreation and Parks to Department of Wildlife, Fisheries and Parks, see § 55-3-31.

ATTORNEY GENERAL OPINIONS

If the Mississippi Department of Wildlife, Fisheries and Parks conveys Nanih Wayia State Park to the Mississippi Band of Choctaw Indians it must secure the fair market value of the park in accordance with the procedures outlined in the latter part of subsection (3) of this section. Posey, Aug. 13, 2004, A.G. Op. 04-0362.

RESEARCH REFERENCES

ALR. Construction of highway through park as violation of use to which park property may be devoted. 60 A.L.R.3d 581.

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 9.

Law Reviews. 1984 Mississippi Supreme Court Review: Property. 55 Miss. L. J. 135, March, 1985.

§ 55-3-48. Pilot program to lease lands within certain state parks for commercial development; State Park Lease Development Endowment Fund created; State Parks Pilot Program Advisory Council created; composition.

(1) For the purposes of this section, the following terms shall have the meanings ascribed in this section unless the context clearly requires otherwise:

(a) "Commission" means the Mississippi Commission on Wildlife, Fisheries and Parks.

(b) "Department" means the Mississippi Department of Wildlife, Fisheries and Parks.

(2) The Mississippi Department of Wildlife, Fisheries and Parks, with the approval of the Commission on Wildlife, Fisheries and Parks, may conduct a pilot program to lease to any person, private entity or governmental entity for commercial development on United States Corp of Engineer's lands within the following state parks: George P. Cossar, Hugh White and John W. Kyle. The commission shall establish criteria for identifying such land or property.

(3)(a) Before approving any land or property located within any of the three (3) state parks for commercial lease and development, the commission must make an affirmative finding and enter upon its official minutes a statement that the development of the land will not be incompatible with the outdoor recreational purposes and opportunities existing at the park or inaccessible to the general public.

(b) The lease may be for a term and upon conditions as the commission may deem to be in the best interest of the state.

(4) If any lease executed under the provisions of this section results in a person being terminated or removed from employment with the department, then the department shall give preference to hiring that person when filling vacant or new employment positions elsewhere within the department.

(5) A developer or lessee may sublease such portions of his lease as may be necessary for the development of a project. A sublease shall be an assignable contract and shall be for commercial purposes, as approved by the commission; however, a sublease may not be for a term in excess of the remaining term of the developer's lease. Each sublease from the developer shall contain an option for the sublessee to renew or renegotiate the lease directly with the department, at any time following ten (10) years after the beginning date of any sublease from the developer.

(6) Rental payments due under any lease executed under this section shall be paid to the department and shall be deposited into the State Park Lease Development Endowment Fund created in this section.

(7) Any construction occurring on land or property leased under this section must fully comply with all applicable state laws, rules and regulations, and any local building codes and zoning ordinances. Development plans and construction must have the prior approval of the commission.

(8) The department, with approval of the commission, may enter into contracts or agreements with agencies of the United States government,

municipalities, corporations, districts, public agencies, political subdivisions of any kind, and others for any services, facilities, utilities or commodities that any development project under the provisions of this section may require. The contract or agreement may be assigned to the developer or lessee, may be upon any terms that conform to the provisions of this section, may be for any time as the parties may agree, and may provide that the contract or agreement shall continue in effect until assigned to, or renegotiated by, a sublessee of the developer or lessee.

(9) There is created in the State Treasury a special fund to be known as the "State Park Lease Development Endowment Fund." The fund shall consist of all monies required to be deposited therein under the provisions of this section. The principal of the fund shall remain inviolate and shall be invested as provided by law. Interest and income derived from investment of the principal of the fund may be expended by the Mississippi Department of Wildlife, Fisheries and Parks, upon appropriation by the Legislature, only for the purpose of constructing, reconstructing, repairing, renovating or making improvements to real and personal property and facilities located within the state parks. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund.

(10)(a) There is created a State Parks Pilot Program Advisory Council to the Commission on Wildlife, Fisheries and Parks to advise and assist the commission on the selection of any developers, development plans and approval of leases for development of the three (3) state parks under the provisions of this section with any person, private or governmental entity. Members of the advisory council shall have no veto authority, and shall serve only as ex officio members of the commission.

(b) The advisory council shall consist of three (3) members, one (1) member each to be selected and appointed by the Boards of Supervisors for Grenada, Panola and Yalobusha Counties, representative of each county in which a pilot-program park is located. The terms of the members of the advisory council shall run concurrently with the term of the appointing board of supervisors. In making its appointment to the advisory council, the boards of supervisors shall be limited to appointing an individual who is a member of the following organizations:

(i) A flood control/navigation or upper levee board association;
(ii) A statewide soil, water and conservation organization;
(iii) A statewide recreational organization;
(iv) A statewide garden club association; or
(v) A tourism and economic development association.

SOURCES: Laws, 2011, ch. 521, § 1, eff from and after July 1, 2011.

§ 55-3-49. Preventive maintenance program.

The department through its executive director, shall inaugurate a positive program of preventive maintenance for all parks under its jurisdiction.

SOURCES: Codes, 1942, § 5958-06; Laws, 1971, ch. 492, § 6; Laws, 2000, ch. 516, § 107, eff from and after passage (approved Apr. 30, 2000.)

§ 55-3-51. Development of historic sites.

The department shall give due and careful attention to the proper development of historical sites designated within its jurisdiction. However, the department shall not accept for its supervision, control, responsibility or jurisdiction any historic sites hereafter offered to it without prior legislative approval.

SOURCES: Codes, 1942, § 5958-07; Laws, 1971, ch. 492, § 7; Laws, 2000, ch. 516, § 108, eff from and after passage (approved Apr. 30, 2000.)

§ 55-3-53. Sale of timber on state park lands.

(1) The Mississippi Department of Wildlife, Fisheries and Parks is hereby authorized and empowered to sell and dispose of timber, trees, deadwood and stumps standing, growing and being upon the lands of state parks. Such timber shall be sold and disposed of under the direction and specifications of the Department of Wildlife, Fisheries and Parks in accordance with sound and efficient principles of selective cutting, forestry management and conservation.

Before any such timber, trees, deadwood and stumps shall be sold, the Department of Wildlife, Fisheries and Parks shall select and mark the trees to be cut and disposed of. No trees or timber shall be marked for cutting when the cutting thereof would destroy or mar the scenic views from the tourist observation points in said park. The purchaser shall pay double price on sale basis for all trees, timber or stumps cut that had not been marked for removing by the Department of Wildlife, Fisheries and Parks.

Before any such timber, trees, deadwood or stumps standing, growing or being upon such land shall be sold, the department shall advertise its intention so to do by publication in a newspaper published or having general circulation in the county or counties where parks are located, such notice to be published at least once a week for three (3) consecutive weeks preceding the sale and by posting one (1) notice in the courthouse in such county. The notice shall specify that such bids shall be filed with the superintendent of the state park involved, who shall transmit same to the Department of Wildlife, Fisheries and Parks for rejection or approval. Said department shall accept the bid of the highest and best bidder for cash, but shall have the right to reject any and all of such bids.

Provided, however, in the case of damage by fire, windstorm, insects or other natural causes which would require immediate sale of the timber, because the time involved for advertisement as prescribed herein would allow decay, rot or destruction substantially decreasing the purchase price to be received had not such delay occurred, the advertisement provisions of this section shall not apply. The State Park Director, upon a written recommendation from the county forester of the county wherein said state park is located, shall determine when immediate sale of the timber is required. When the State Park Director shall find an immediate sale necessary for the causes stated herein, he shall, in his discretion, set the time for receipt of bids on the purchase of said timber, but shall show due diligence in notifying competitive bidders so that a true competitive bid shall be received.

Whenever any timber, trees, deadwood or stumps are sold under the provisions of this section, the purchaser thereof shall have all necessary rights of ingress and egress to enter upon said land and cut and remove such timber, trees, deadwood or stumps.

The proceeds derived or received from all sales under the provisions of this section shall be placed in the State Parks Timber Management Endowment Fund created under Section 55-3-54.

(2) Notwithstanding the provisions of subsection (1) of this section, the Department of Wildlife, Fisheries and Parks may cut and sell trees damaged by fire, windstorm or insects and deadwood and stumps located upon the lands of state parks for firewood. Such firewood shall be sold only to overnight guests at state parks for use at state parks. The Department of Wildlife, Fisheries and Parks shall select and mark all trees to be cut for firewood.

SOURCES: Codes, 1942, § 5957-12; Laws, 1964, ch. 240, § 12; Laws, 1980, ch. 512; Laws, 1989, ch. 544, § 125; Laws, 2004, ch. 349, § 2, eff from and after July 1, 2004.

Cross References — Transfer of functions of Commission on Environmental Quality, Bureau of Recreation and Parks to Department of Wildlife, Fisheries and Parks, see § 55-3-31.

§ 55-3-54. State Parks Timber Management Endowment Fund.

There is created in the State Treasury a special fund to be known as the "State Parks Timber Management Endowment Fund." The fund shall consist of all monies required to be deposited therein under the provisions of Section 55-3-53. The principal of the fund shall remain inviolate and shall be invested as provided by law. Interest and income derived from investment of the principal of the fund may be expended by the Mississippi Department of Wildlife, Fisheries and Parks, upon appropriation by the Legislature, only for the purpose of constructing, reconstructing, repairing, renovating or making improvements to real and personal property and facilities on any of the state parks under the jurisdiction and control of the Commission on Wildlife, Fisheries and Parks. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund.

SOURCES: Laws, 2004, ch. 349, § 1, eff from and after July 1, 2004.

§ 55-3-55. Repealed.

Repealed by Laws, 1978, ch. 484, § 42, eff from and after July 1, 1979. [Codes, 1942, § 5957-07; Laws, 1964, ch. 240, § 7]

Editor's Note — Former § 55-3-55 related to the annual report of the Park Commission.

§ 55-3-57. Bond of employees; disposition of recovery on forfeiture of bond.

Each employee of the department, when required by resolution of a majority of the commission, shall give a bond for the faithful performance of his duties as an employee of the commission, which bond shall be made payable to the State of Mississippi and shall be in the penal sum of One Thousand Dollars ($1,000.00). In case of forfeiture of any bond provided for herein, and recovery on same, the amount received shall go to the department, to be used by it in furtherance of the management and development of the state parks.

SOURCES: Codes, 1942, § 5957-08; Laws, 1964, ch. 240, § 8; Laws, 2000, ch. 516, § 109, eff from and after passage (approved Apr. 30, 2000.)

§ 55-3-59. Penalties for violations of rules and regulations.

Any person violating any of the rules and regulations promulgated by the commission is guilty of a misdemeanor, and upon conviction, shall be liable to a fine of not less than Five Dollars ($5.00) nor more than One Hundred Dollars ($100.00), or be subject to imprisonment for not less than ten (10) days nor more than thirty (30) days, or shall be liable to both such fine and imprisonment in the discretion of the court.

SOURCES: Codes, 1942, § 5957-09; Laws, 1964, ch. 240, § 9; Laws, 2000, ch. 516, § 110, eff from and after passage (approved Apr. 30, 2000.)

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 55-3-61. Appropriations and donations by county boards of supervisors for park purposes.

The board of supervisors of any county where a state park is located may, in its discretion, appropriate and donate to the Department of Wildlife, Fisheries and Parks yearly a sum not to exceed Five Thousand Dollars ($5,000.00) out of the general county fund for the establishment, maintenance and support of the state park within that county. All money appropriated and donated by the board of supervisors shall be used for the establishment, maintenance and support of the state park within such county and for no other purpose.

The board of supervisors of any county lying wholly within a levee district, and having two (2) judicial districts, bordering on the Mississippi River and wherein Highway 61 and Highway 8 intersect, is authorized, in its discretion, to expend funds from the general fund of the county for the establishment, maintenance and support of a state park within that county to be located upon lands situated adjacent to the Mississippi River and lying west of the mainline

Mississippi River levee within that county. In addition, the board is authorized, in its discretion, to expend county or supervisors district road maintenance and construction funds for the construction and maintenance of roads leading to and across the lands upon which the park is to be located.

SOURCES: Codes, 1942, § 5957-10; Laws, 1964, ch. 240, § 10; Laws, 1974, ch. 331; Laws, 1986, ch. 400, § 42; Laws, 1989, ch. 544, § 126; Laws, 1998, ch. 435, § 1, eff from and after July 1, 1998.

Cross References — Exercise of eminent domain by county seeking to convey land to state for state parks and the like, see § 55-3-13.

§ 55-3-63. Sardis Lake and Enid Lake state parks.

There are hereby authorized to be established state parks to be under the jurisdiction of the department, on land to be provided for this purpose by the United States:

(a) On Sardis Lake in Panola County, Mississippi;

(b) On Sardis Lake in Lafayette County, Mississippi, reasonably close and accessible to the University of Mississippi near the Sardis Dam Reservoir on the south side of Sardis Lake; and

(c) On Enid Lake in Yalobusha County, Mississippi.

SOURCES: Codes, 1942, §§ 5957-11, 5957-13; Laws, 1964, ch. 240, §§ 11, 13; Laws, 2000, ch. 516, § 111, eff from and after passage (approved Apr. 30, 2000.)

Cross References — Authority of Governor to close state parks, see § 55-3-101.

§ 55-3-65. State park, game management areas and wildlife refuges in Pickwick Reservoir Area.

The Governor of the State of Mississippi is hereby authorized to enter into an indenture and agreement with the Tennessee Valley Authority as the agent of the United States of America whereby the State of Mississippi will acquire certain lands located in Tishomingo County, Mississippi, in the Pickwick Reservoir Area for use as a state park or parks, game management areas, and/or wildlife refuges. The department is hereby authorized and empowered to establish, maintain and operate a state park or parks, game management areas, and/or wildlife refuges on said lands thus acquired.

The department is authorized to build a lodge or lodges, cabins, boating, recreational, camping, and any and all other facilities suitable or convenient for the purpose of establishing such a state park or parks, game management areas, and/or wildlife refuges not to be limited by the enumeration of purposes above. All state and local agencies of government are authorized to assist and cooperate with the commission for the purposes of this section.

SOURCES: Codes, 1942, § 5957-14; Laws, 1964, ch. 240, § 14; Laws, 2000, ch. 516, § 112, eff from and after passage (approved Apr. 30, 2000.)

Cross References — Authority of Governor to close state parks, see § 55-3-101.

§ 55-3-67. Samuel Dale historical monument.

There is hereby authorized to be established an historical monument near Meridian, Mississippi, in Lauderdale County, at the burial site of Samuel Dale, which area shall be under the jurisdiction of the department.

SOURCES: Codes, 1942, § 5957-11; Laws, 1964, ch. 240, § 11; Laws, 2000, ch. 516, § 113, eff from and after passage (approved Apr. 30, 2000.)

§ 55-3-69. Comprehensive long-range plan for development of state outdoor recreation resources.

The commission, in cooperation with the University Research Center, is authorized and directed to supervise the preparation, maintenance and upgrading of a comprehensive long-range statewide plan for the development of outdoor recreation resources of the state, which plan will be prepared by the staff of the commission.

SOURCES: Codes, 1942, § 5974-102; Laws, 1966, ch. 282, § 2; Laws, 1988, ch. 518, § 25; Laws, 2000, ch. 516, § 114, eff from and after passage (approved Apr. 30, 2000.)

Cross References — University Research Center, see §§ 37-141-1 et seq.

Any federal funds received under this section to be deposited in State Treasury and credited to the Mississippi Outdoor Recreation Fund, see § 55-3-79.

§ 55-3-71. Duties of executive director relating to Land and Water Conservation Fund Act.

The executive director is designated as the authorized representative of the State of Mississippi under the federal Land and Water Conservation Fund Act, and the executive director is hereby directed to utilize the plan specified in Section 55-3-69 in carrying out the authority vested in said office, it being the intention that any action taken by the authorized representative be pursuant to and in compliance with said plan.

SOURCES: Codes, 1942, § 5974-103; Laws, 1966, ch. 282, § 3; Laws, 2000, ch. 516, § 115, eff from and after passage (approved Apr. 30, 2000.)

Cross References — Any federal funds received under this section to be deposited in State Treasury and credited to the Mississippi Outdoor Recreation Fund, see § 55-3-79.

Federal Aspects — Land and Water Conservation Fund Act, see 16 USCS §§ 4601-4 et seq.

§ 55-3-73. Agreements with United States, etc., generally; representation of state and local entities.

The commission may enter into contracts and agreements with the United States or any appropriate agency thereof, keep financial records and other records relating thereto, and furnish to appropriate officials and agencies of the United States such reports and information as may be reasonable and necessary to enable such appropriate officials of the United States government and agencies thereof to perform their duties under such federal programs. In connection with obtaining for the State of Mississippi the benefits of any such program, the department shall coordinate its activities with and represent the interest of all agencies and departments of the state and of the municipal, county and other governmental units and subdivisions of the State of Mississippi having interest in the planning, development and maintenance of outdoor recreation resources and facilities within the state.

SOURCES: Codes, 1942, § 5974-104; Laws, 1966, ch. 282, § 4; Laws, 2000, ch. 516, § 116, eff from and after passage (approved Apr. 30, 2000.)

Cross References — Any federal funds received under this section to be deposited in the State Treasury and credited to the Mississippi Outdoor Recreation Fund, see § 55-3-79.

§ 55-3-75. Projects to be undertaken only if funds are available.

Projects may be undertaken only after the department has determined that sufficient funds are available for meeting the state's share of project costs.

SOURCES: Codes, 1942, § 5974-105; Laws, 1966, ch. 282, § 5; Laws, 2000, ch. 516, § 117, eff from and after passage (approved Apr. 30, 2000.)

Cross References — Any federal funds received under this section to be deposited in the State Treasury and credited to the Mississippi Outdoor Recreation Fund, see § 55-3-79.

§ 55-3-77. Agreements with United States on behalf of counties, municipalities and other governmental units.

The commission may enter into and administer agreements with the United States or any appropriate agency thereof for the planning, acquisition, or development of projects involving participating federal aid funds on behalf of any county, municipality or other governmental unit, provided that such county, municipality or other governmental unit gives necessary assurances to the department that it has available sufficient funds to meet its share of the cost of the project and that the acquired or developed areas will be operated and maintained at its expense for public outdoor recreation use.

SOURCES: Codes, 1942, § 5974-106; Laws, 1966, ch. 282, § 6; Laws, 2000, ch. 516, § 118, eff from and after passage (approved Apr. 30, 2000.)

Cross References — Any federal funds received under this section to be deposited in the State Treasury and credited to the Mississippi Outdoor Recreation Fund, see § 55-3-79.

§ 55-3-79. Outdoor Recreation Fund.

There is hereby created a Mississippi Outdoor Recreation Fund. Any federal funds received under Sections 55-3-69 through 55-3-77 shall be deposited in the State Treasury and credited to the Mississippi Outdoor Recreation Fund for the purpose of carrying out the provisions of said sections. The funds in this account shall be disbursed by the department in the usual manner that state funds are disbursed.

SOURCES: Codes, 1942, § 5974-107; Laws, 1966, ch. 282, § 7; Laws, 2000, ch. 516, § 119, eff from and after passage (approved Apr. 30, 2000.)

Cross References — State Game and Fish Protection Fund, see § 49-5-21.
State Forestry Fund, see § 49-19-15.
Mississippi Park Fund, see § 55-3-41.

§ 55-3-81. Functions and jurisdiction of state agencies unaffected by Sections 55-3-69 through 55-3-79.

Nothing in Sections 55-3-69 through 55-3-79 shall be construed as attempting to substitute, transfer or supersede the proper constitutional or statutory function or jurisdiction of any state agency or head thereof by any other state agency.

SOURCES: Codes, 1942, § 5974-108; Laws, 1966, ch. 282, § 8, eff from and after passage (approved June 16, 1966).

§ 55-3-83. Yocona Ridge State Park renamed George Payne Cossar State Park.

The Department of Wildlife, Fisheries and Parks is hereby directed to change the name of the Yocona Ridge State Park to the "George Payne Cossar State Park."

Any reference in any laws of the State of Mississippi to the Yocona Ridge State Park shall be deemed to mean the George Payne Cossar State Park.

SOURCES: Laws, 1979, ch. 446; Laws, 1989, ch. 544, § 127, eff from and after July 1, 1989.

CLOSING OF STATE PARKS

SEC.
55-3-101. Authority of Governor to close state parks.

55-3-103. Proclamation as to closure; period of closure.
55-3-105. Entry upon premises of closed park.

§ 55-3-101. Authority of Governor to close state parks.

As supplemental to and in addition to all other power and authority which may now be vested in the Governor of the State of Mississippi by the constitution or statutes, or both, or any power or authority which may be vested in him by common law as Governor, as such, the Governor of the State of Mississippi is hereby vested with the authority to close any or all state parks in the State of Mississippi when, in his discretion, he determines such closure would be to the best interest of the county or counties in which any state park or parks may be situated, or whenever he so determines such to be to the best interest of the State of Mississippi. The said Governor, as such, is also vested with such supplemental and additional authority to close any or all state parks in the State of Mississippi when, in his discretion, he determines such closure will promote or preserve the public peace, order or tranquility of the county or counties in which such park or parks may be situated, or that such closure will promote or preserve the public peace, order or tranquility in and of the State of Mississippi.

The fact that the power and authority to close any or all of the state parks may be by some other statute of the State of Mississippi now or hereafter vested in some other person or officer or commission shall not cause this section and any other such law or laws to be in conflict nor shall same be construed to be in conflict with each other. Such power and authority vested in each such commission or person or officer, as the case may be, may be exercised by each or either, independent of any other such commission of person or persons or officer or officers.

SOURCES: Codes, 1942, § 5963.6; Laws, 1958, ch. 194, §§ 1-6.

Cross References — Powers and duties of the Governor generally, see § 7-1-5.

Closing of schools and institutions of higher learning by the Governor, see §§ 37-65-1 through 37-65-21.

Proclamation of closure by Governor effective upon execution or issuance and until further proclamation is issued to reopen park, see § 55-3-103.

No person to enter upon closed state park premises without permission of governor, see § 55-3-105.

§ 55-3-103. Proclamation as to closure; period of closure.

The decision or determination to close any or all of the state parks shall be effectuated and evidenced by a proclamation of the Governor of the State of Mississippi and which shall be effective upon his execution or issuance thereof. Such park or parks closed shall remain so closed until said Governor shall execute or issue a further proclamation opening same. The use by said governor of the power vested in him by the terms of Section 55-3-101 may be exercised from time to time, as, in his discretion, he may deem necessary for any or all of the purposes specified in said section. Any proclamation of closure need not specify the period of time during which such closure shall be effective.

SOURCES: Codes, 1942, § 5963.6; Laws, 1958, ch. 194, §§ 1-6.

Cross References — No person to enter upon closed state park premises without permission of governor, see § 55-3-105.

§ 55-3-105. Entry upon premises of closed park.

Upon the closure of any state park or parks, no person shall go or enter upon the premises thereof except with the permission or approval of said Governor. Any other person going or entering upon said premises shall be a trespasser and guilty of a misdemeanor under the laws of the State of Mississippi and, upon conviction thereof, shall be fined not more than five hundred dollars ($500.00) or imprisoned in the county jail for not more than thirty (30) days, or both so fined and imprisoned.

SOURCES: Codes, 1942, § 5963.6; Laws, 1958, ch. 194, §§ 1-6.

Cross References — Governor authorized to close any or all state parks, see § 55-3-101.

Proclamation of closure by Governor effective upon execution or issuance and until further proclamation is issued to reopen park, see § 55-3-103.

Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

CHAPTER 5

Federal Parks and National Parkways

In General 55-5-1
Mississippi Transportation Commission And National Parkways 55-5-19
Mississippi River Parkway Commission 55-5-51

IN GENERAL

Sec.
55-5-1. Declaration of emergency.
55-5-3. Construction.
55-5-5. Conveyances by counties of rights-of-way and easements for construction of roadways and parkways by federal government; eminent domain; powers of federal government as to national roadways or parkways generally.
55-5-7. Conveyances of roads or rights-of-way by Highway Commission.
55-5-9. Conveyances by Governor; grant of rights-of-way, easements, etc., in sixteenth section lands.
55-5-11. Execution of conveyances and deeds.
55-5-13. Protection of adjacent property.
55-5-15. Limitation of size of national roadway or parkway.
55-5-17. Acquisition of lands by United States; reservations of rights.

§ 55-5-1. Declaration of emergency.

The urgent need for bridges over and across the rivers and waters within and bordering this state, and the need on the part of the inhabitants of the State of Mississippi for the expenditure of such funds as may be made available by Sections 55-5-1 through 55-5-17 makes the enactment of said sections into law necessary for the immediate preservation of the public health, safety, convenience and welfare of the inhabitants of this state and requires the necessity that said sections shall take effect and be in force from and after their passage and approval.

SOURCES: Codes, 1942, § 5974; Laws, 1935, ch. 52.

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges § 35.

59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 21.

§ 55-5-3. Construction.

Sections 55-5-1 through 55-5-17, being necessary for and to secure the public health, safety, convenience and welfare of municipalities, counties and other political subdivisions of the State of Mississippi, shall be liberally construed to effect the purposes thereof.

SOURCES: Codes, 1942, § 5973; Laws, 1935, ch. 52.

§ 55-5-5. Conveyances by counties of rights-of-way and easements for construction of roadways and parkways by federal government; eminent domain; powers of federal government as to national roadways or parkways generally.

The board of supervisors of any county within the State of Mississippi through which or adjoining which the United States government or any of its agencies desires to construct a roadway or a roadway and parkway in connection therewith, shall have full power to donate such rights of way, together with scenic easements of such additional lands as may be required by the United States government, for the purpose of constructing such roadway or roadway and parkway. Any and all counties in the State of Mississippi are authorized to receive by donation, gift, will or purchase with county funds, any and all necessary lands, rights of way or scenic easements, and after the acquisition of such lands, rights of way or scenic easements may, by resolution or deed or other authorization of the board of supervisors of such county, convey same to the United States or to such subordinate agency of the United States as may be required for the establishment of such roadway or roadway and parkway.

The board of supervisors of any county in the State of Mississippi is hereby expressly vested with the power of eminent domain to condemn for public use as a public park and for scenic easement all lands adjoining such public park or parkway and for road or roadways and to acquire title to all or any part of the lands which such board of supervisors may deem necessary for the purposes of complying with the requirements of the United States government in the establishment of any national roadway or roadway and parkway through the State of Mississippi. Such right of condemnation shall include the right to condemn houses, outbuildings, orchards, yards, gardens and other improvements on such lands. Said board of supervisors is authorized to acquire all or any right, title or interest in and to all or any part of such lands and the improvements thereon by the right of eminent domain in condemnation proceedings or by gift, devise, purchase or any other lawful means for the transfer of title. Such condemnation proceedings shall be carried out and executed as are condemnation proceedings by the highway department of the State of Mississippi as authorized under the laws of the State of Mississippi.

The United States government, or any of its subsidiary agencies, shall have complete control and supervision, severally or in connection with any county or counties in the State of Mississippi or with the highway department of the State of Mississippi, with full power and authority to locate, relocate, widen, alter, change, straighten, construct or reconstruct roads or rights of way, parkways or lands covered by scenic easements on any federal parkway, highway or trace being constructed by the United States government or any of its subsidiary subdivisions or severally or jointly with any county or counties in the State of Mississippi or with the state highway department of the State of Mississippi and shall have full and complete authority for the making of all contracts, surveys, plans and specifications and estimates for the location, laying out, widening, straightening, altering, changing, constructing, reconstructing and maintaining and securing rights of way therefor of any and all such highways, parkways, and scenic easements and shall further have the right to authorize its employees and agents to enter upon property for such purposes. The said United States government severally and any county or counties in the State of Mississippi and the said highway department, either jointly or severally, is further authorized and empowered to obtain and pay for rights of way to such width and extent as may be necessary to meet the requirement of the United States government for the construction and building of new parkway or roadway or scenic highway in the State of Mississippi. Such political authorities, either jointly or severally shall have the right to condemn or acquire by gift or purchase lands necessary for the building and maintenance of said roadway, parkway or trace.

In event that said political authority or authorities so acting, either jointly or severally, shall be unable to agree with the owners of land necessary for widening any existing public highways which shall be used as a part of said national roadway or parkway or for the building of said roadway or parkway or for the laying out of any public highway or parkway in connection therewith or changing the route of an existing public highway, then the said political authority or authorities, either jointly or severally, aforesaid, shall be authorized to condemn any land needed for any of said purposes. The proceedings to acquire such lands by condemnation shall be in conformity with the statute on the subject of eminent domain under the laws of the State of Mississippi, the power of eminent domain being hereby expressly conferred upon said political subdivision or authorities for that purpose.

Such proceedings shall take precedence over all other causes not involving the public interest in all courts and shall be given preference to the end that construction and reconstructions of highways and parkways may not be unreasonably delayed, but the same may be fully expedited. The amount of such compensation and damages, if any, awarded to the owner in such proceedings shall be paid by the respective counties in which the lands obtained for such highway or parkway may be located unless funds are otherwise provided by the State of Mississippi for the acquisition of such lands.

SOURCES: Codes, 1942, §§ 5964, 5965; Laws, 1935, ch. 52.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error at the beginning of the first paragraph by substituting "The board of supervisors" for "The boards of supervisors." The Joint Committee ratified the correction at its August 5, 2008, meeting.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

Cross References — How right of eminent domain is to be exercised, see § 11-27-1.

County board of supervisors jurisdiction and power generally, see § 19-3-41.

Appropriations and donations by board of supervisors for support of state park within county, see § 55-3-61.

Execution of conveyances and deeds, see § 55-5-11.

Retention by State of Mississippi of concurrent jurisdiction with the United States over certain civil and criminal processes, see § 55-5-17.

Exercise of eminent domain in development of Natchez Trace, see § 55-13-7.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 67, 73.

CJS. 29A C.J.S., Eminent Domain §§ 33, 58.

§ 55-5-7. Conveyances of roads or rights-of-way by Highway Commission.

The State Highway Commission of the State of Mississippi is hereby fully authorized to convey and set over unto the United States government, or any of its subsidiary departments when approved by the Governor of the State of Mississippi, any and all rights of way or roads which it may own or possess or have authority over, conveying same exclusively to the United States government or conveying joint control thereof to the United States government for the purpose of aiding in the location, building, construction and maintenance of a national highway or parkway in the State of Mississippi.

SOURCES: Codes, 1942, § 5967; Laws, 1935, ch. 52.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Power of Secretary of State to sell, lease, or donate public lands to Mississippi Transportation Commission, see § 29-1-77.

Conveyances by county boards of supervisors of right of way and easements for construction of roadways and parkways, see § 55-5-5.

Conveyances by Governor of certain lands, including sixteenth section lands, to federal government, see § 55-5-9.

Conveyances by Mississippi Transportation Commission of lands for Natchez Trace, see § 55-13-3.

Powers and duties of the Highway Commission, generally, see § 65-1-8.

§ 55-5-9. Conveyances by Governor; grant of rights-of-way, easements, etc., in sixteenth section lands.

The Governor of the State of Mississippi is further authorized to convey to the United States or any of its subsidiary agencies any and all lands owned by the State of Mississippi which have been acquired by tax sale, donation, or gift. The said State of Mississippi and the said boards of supervisors of the county where said parkway is located are fully authorized and empowered to give and grant any and all rights of way, parkway rights or scenic easements in, over and through any sixteenth section lands or lands in lieu of sixteenth section lands, making any and all necessary conveyances thereto which may be required by the United States government.

SOURCES: Codes, 1942, § 5969; Laws, 1935, ch. 52.

Cross References — Power of Secretary of State to sell to United States certain state forfeited tax lands, see § 3-5-11.

Power of Secretary of State to sell, lease, or donate public lands for development of federal highways, see § 29-1-77.

§ 55-5-11. Execution of conveyances and deeds.

The board of supervisors and the State of Mississippi, acting by and through its Governor, are fully authorized and vested with power to execute any lawful conveyance or conveyances, deed or deeds which said board of supervisors or such governor may deem proper and necessary for the execution of any contract or contracts under authority of Sections 55-5-1 through 55-5-17. Any deed or deeds or conveyance or conveyances, when executed by the board of supervisors shall be executed in the name of the county, and when executed by the Governor shall be executed in the name of the State of Mississippi. Such deed when executed by the board of supervisors shall be attested by the chancery clerk, and when executed by the governor shall be attested by the secretary of state. Such deeds or instruments shall be sealed with the respective seals of the respective authorities and no other warrant or authority shall be required for the conveyance of such right, title or interest or for the registration of any of such instruments.

SOURCES: Codes, 1942, § 5968; Laws, 1935, ch. 52.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in the first sentence, substituting "are" for "is" so that "The board of supervisors and the State of Mississippi, acting by and through its Governor, is fully authorized" now reads "The board of supervisors and the State of Mississippi, acting by and through its Governor, are fully authorized." The Joint Committee ratified the correction at its August 5, 2008, meeting.

Cross References — Purchase of land by state generally, see § 29-1-1.

§ 55-5-13. Protection of adjacent property.

The authorities constructing such highway, parkway, or roadway under the authority as is provided in Sections 55-5-1 through 55-5-17 shall use diligence to protect growing crops and pastures, and to prevent damage to any property not taken. So far as possible, all rights of way for roadways and parkways purposes and scenic easements purposes shall be acquired or contracted for before any route is definitely located.

SOURCES: Codes, 1942, § 5966; Laws, 1935, ch. 52.

§ 55-5-15. Limitation of size of national roadway or parkway.

Such national roadway or parkway shall not exceed in area as an average throughout its length in the State of Mississippi more than one hundred (100) acres to the mile of such roadway or parkway, and in addition thereto not in excess of fifty (50) acres to the mile of said national roadway or parkway of scenic easement rights.

SOURCES: Codes, 1942, § 5971; Laws, 1935, ch. 52.

Cross References — Limitation of size of Natchez Trace, see § 55-13-5.

§ 55-5-17. Acquisition of lands by United States; reservations of rights.

The United States of America is authorized to acquire by deed or conveyance, gift, will or otherwise lands for the purpose of roadways and parkways as set forth in Sections 55-5-1 through 55-5-17, but this consent is given upon condition that the State of Mississippi shall retain a concurrent jurisdiction with the United States in and over such lands so far that civil process in all cases and such criminal process as may issue under the authority of the State of Mississippi against any person charged with the commission of any crime, without or within said jurisdiction, may be executed thereon in like manner as if this consent had not been given. Power is hereby conferred on the Congress of the United States to pass such laws as it may deem necessary for the acquisition of the said lands and for their incorporation in national roadways, parkways or national parks, and to pass such laws and make or provide for the making of such rules and regulations, of both civil and criminal nature, and to provide punishment therefor as in its judgment may be necessary for the management, control and protection of such lands as may be acquired by the United States under the provisions of the aforesaid sections, including such lands as are acquired not only for highway and parkway and park purposes but also those lands over which scenic easements are acquired for such purposes. Nevertheless, such jurisdiction shall not vest in the United States of America unless and until it, through the proper officer or officers, notifies the governor and, through him, the State of Mississippi that the United States of America assumes concurrent police jurisdiction over the land or lands thus deeded and conveyed. There is saved to the State of Mississippi the right to tax sales of gasoline and other motor vehicle fuels and oils for use in motor vehicles and to tax persons and corporations, their franchises and properties, on all land or lands deeded or conveyed as aforesaid. There is saved to persons residing in or on any of the land or lands deeded or conveyed as aforesaid, the right to vote at all elections within the county in which said land or lands are located, upon like terms and conditions and to the same extent as they would be entitled to vote in such county had not such lands been deeded or conveyed as aforesaid to the United States of America.

SOURCES: Codes, 1942, § 5970; Laws, 1935, ch. 52.

Cross References — Cession of jurisdiction over public lands to United States for certain purposes and restrictions on cession, see §§ 3-5-3, 3-5-9.

MISSISSIPPI TRANSPORTATION COMMISSION AND NATIONAL PARKWAYS

SEC.	
55-5-19.	Assent to acts of Congress; cooperation of state and federal agencies, etc.
55-5-21.	Definitions.
55-5-23.	Duty of Highway Commission to make investigations, surveys, studies and plans concerning national parkway.
55-5-25.	Findings and determination of Highway Commission concerning parkway.
55-5-27.	Powers of Highway Commission to secure parkway development for state; utilization of county highway funds.
55-5-29.	Acquisition of easements and rights-of-way by Highway Commission; conveyance of state and local government property to United States.
55-5-31.	Authorization of expenditures by Highway Commission.
55-5-33.	Construction.

§ 55-5-19. Assent to acts of Congress; cooperation of state and federal agencies, etc.

The intent of this section is to assent to any act of the United States Congress authorizing the development of any national parkway located wholly or partly within the State of Mississippi, to the full extent that is necessary to secure any benefits under such act, provided that the hunting of migratory water fowl and other game and fishing shall not be prohibited or otherwise restricted by the United States government or any of its designated agencies in control of said project. It is the further intent of this section to authorize the appropriate state boards, commissions, and departments, and especially the state highway commission, and the governing bodies of counties, cities, towns and villages, to cooperate in the planning and development of all national parkways that may be proposed for development in Mississippi, with any agency or department of the government of the United States in which is vested the necessary authority to construct or otherwise develop such national parkways. Whenever authority shall exist for the planning and development of any national parkway, of which any portion shall be located in this state, it shall be the duty of the state highway commission to make such investigations and studies in cooperation with the appropriate federal agency, and such state boards, commissions and departments as shall have an interest in such parkway development, to the extent that shall be desirable and necessary in order to provide that the state shall secure all advantages that may accrue through such parkway development and that the interests of the counties, cities, villages and towns along the route shall be conserved.

SOURCES: Codes, 1942, § 5978; Laws, 1940, ch. 160.

Editor's Note — Section 65-1-3 provides that the State Highway Commission is now the Mississippi Transportation Commission and members of the State Highway Commission are now Mississippi transportation commissioners.

RESEARCH REFERENCES

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges § 35.

59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 21.

§ 55-5-21. Definitions.

For the purposes of Sections 55-5-19 through 55-5-33, all terms applying to any parkway, such as "secretary", "parkway", "scenic landscape", "sightly or safety easement", "access", "parkway road", "frontage", and other or similar terms, which are defined in any act of the United States Congress applicable to such national parkway, shall have the meanings set forth in such act.

SOURCES: Codes, 1942, § 5979; Laws, 1940, ch. 160.

Editor's Note — Section 65-1-3 provides that the State Highway Commission is now the Mississippi Transportation Commission and members of the State Highway Commission are now Mississippi transportation commissioners.

§ 55-5-23. Duty of Highway Commission to make investigations, surveys, studies and plans concerning national parkway.

The State Highway Commission shall have full authority to make such investigations, surveys, studies and plans in connection with any proposed national parkway or parkway development as it shall deem necessary or desirable in order to determine if the proposed development, under the terms of the act of the United States Congress applicable to such parkway or any regulation, under such act, are advantageous to the state. Such parkway development may be any portion of the proposed parkway, which it may be proposed to construct as a project under such act. The State Highway Commission may hold such hearings in connection with such investigations as it shall deem necessary or desirable, and shall give at least seven (7) days' notice of such hearings by publication in at least two (2) newspapers having general circulation in the locality.

SOURCES: Codes, 1942, § 5980; Laws, 1940, ch. 160.

Editor's Note — Section 65-1-3 provides that the State Highway Commission is now the Mississippi Transportation Commission and members of the State Highway Commission are now Mississippi transportation commissioners.

Cross References — Mississippi Department of Wildlife, Fisheries and Parks authorized to survey state-owned land to determine applicability of land for use as state park, see § 55-3-5.

Powers and duties of the Highway Commission generally, see § 65-1-8.

§ 55-5-25. Findings and determination of Highway Commission concerning parkway.

When the State Highway Commission has completed its investigations with respect to any proposed national parkway development, it shall make its findings and determination with respect to such proposed development. Such finding and determination shall state whether or not such proposed national parkway development is deemed advantageous to the state, shall include such information with respect to the development as shall be necessary to state its character and extent, and shall estimate the cost thereof and separately, the amount and character of lands necessary to be acquired in fee simple and in easements, with their cost, and needed to carry out the development.

SOURCES: Codes, 1942, § 5981; Laws, 1940, ch. 160.

Editor's Note — Section 65-1-3 provides that the State Highway Commission is now the Mississippi Transportation Commission and members of the State Highway Commission are now Mississippi transportation commissioners.

Cross References — Powers and duties of the Highway Commission generally, see § 65-1-8.

§ 55-5-27. Powers of Highway Commission to secure parkway development for state; utilization of county highway funds.

If the State Highway Commission, after such investigations and studies, shall find that the proposed parkway development is advantageous to the state, it shall have full authority to perform, on behalf of the state, each and every duty required of the state by the act of the United States Congress applicable to such parkway development, in order to secure the proposed development project for the state. For the purposes of such development project, the parkway shall be a portion of the state highway system. Any moneys that may be available for the improvement of the state highway system within any county may be available for any proposed national parkway development within such county, in the same manner as such moneys shall be available for state highways. The board of supervisors of any county may authorize the use of any moneys available to the county under any statutes, for the purposes of the proposed parkway development to the same amount as for state highways under such statutes. The board of supervisors may provide money for any national parkway development project in the same manner and in the same amount as for state highways, and any county bonds issued to provide funds for any such parkway development shall be retired in the same manner as bonds issued for state highways.

SOURCES: Codes, 1942, § 5982; Laws, 1940, ch. 160.

Editor's Note — Section 65-1-3 provides that the State Highway Commission is now the Mississippi Transportation Commission and members of the State Highway Commission are now Mississippi transportation commissioners.

§ 55-5-29. Acquisition of easements and rights-of-way by Highway Commission; conveyance of state and local government property to United States.

All lands for right of way to be acquired in the fee simple and all easements necessary to be acquired for the purposes of the proposed national parkway development may be acquired by the State Highway Commission in the name of the state, as may be required by the act of the United States Congress applicable thereto. Any lands owned by the state or by any county, city, village or town, may be conveyed to the United States for the purposes of the parkway in the manner provided by law. The commission may acquire such lands by gift, purchase agreement, or by exercising the right of eminent domain in any manner that may be provided by law for the acquirement of lands for public purposes. The commission shall have authority to convey such lands to the United States government or any of its agencies, as may be required by the act of the United States Congress applicable to such national parkway.

SOURCES: Codes, 1942, § 5983; Laws, 1940, ch. 160.

Editor's Note — Section 65-1-3 provides that the State Highway Commission is now the Mississippi Transportation Commission and members of the State Highway Commission are now Mississippi transportation commissioners.

Cross References — How right of eminent domain is to be exercised, see § 11-27-1.

Conveyances by Mississippi Transportation Commission of lands for Natchez Trace, see § 55-13-3.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 67, 73.

9 Am. Jur. Pl & Pr Forms (Rev), Eminent Domain, Form 31.1 (Complaint, petition, or declaration—For condemnation—By state agency—For state transportation facility).

CJS. 29A C.J.S., Eminent Domain §§ 33, 58.

§ 55-5-31. Authorization of expenditures by Highway Commission.

The State Highway Commission shall not make any expenditures in furtherance of Sections 55-5-19 through 55-5-33 unless specifically authorized to do so by the legislature.

SOURCES: Codes, 1942, § 5984; Laws, 1940, ch. 160.

Editor's Note — Section 65-1-3 provides that the State Highway Commission is now the Mississippi Transportation Commission and members of the State Highway Commission are now Mississippi transportation commissioners.

§ 55-5-33. Construction.

All powers granted in Sections 55-5-19 through 55-5-33 shall be liberally construed in favor of the State Highway Commission and any proposed national parkway development projects.

SOURCES: Codes, 1942, § 5984; Laws, 1940, ch. 160.

Editor's Note — Section 65-1-3 provides that the State Highway Commission is now the Mississippi Transportation Commission and members of the State Highway Commission are now Mississippi transportation commissioners.

MISSISSIPPI RIVER PARKWAY COMMISSION

Sec.	
55-5-51.	Creation of commission.
55-5-53.	Composition of commission; appointment and terms of office of members.
55-5-55.	Selection of officers; meetings; quorum.
55-5-57.	Compensation of members.
55-5-59.	Relationship with National Commission and Mississippi Highway Department.
55-5-61.	Assistance of commission by state agencies.
55-5-63.	Erection of signs along Great River Road.

§ 55-5-51. Creation of commission.

There is hereby created and established a commission to be known as the Mississippi River Parkway Commission of Mississippi, referred to as the commission in Sections 55-5-51 through 55-5-63.

SOURCES: Codes, 1942, § 5984.5; Laws, 1962, ch. 256, §§ 1-9.

§ 55-5-53. Composition of commission; appointment and terms of office of members.

The commission shall be composed of ten (10) members, of whom two (2) shall be residents of DeSoto, Tunica and Coahoma Counties; two (2) shall be residents of Bolivar and Washington Counties; two (2) shall be residents of Sharkey, Issaquena and Warren Counties; two (2) shall be residents of Claiborne and Jefferson Counties; and two (2) shall be residents of Adams and Wilkinson Counties. On the original commission, two (2) members shall be appointed for terms of one (1), two (2), three (3), four (4) and five (5) years, each. All successor members shall be appointed for terms of five years, except for members appointed to fill an unexpired term. Immediately upon making any appointment to the commission, the governor shall notify the Mississippi River Parkway Commission, referred to as the National Commission in Sections 55-5-51 through 55-5-63, giving the names and addresses of the member or members appointed.

SOURCES: Codes, 1942, § 5984.5; Laws, 1962, ch. 256, §§ 1-9.

§ 55-5-55. Selection of officers; meetings; quorum.

At the first meeting of the commission, and annually thereafter, the members shall select a chairman and a secretary from the membership. Meetings of the commission shall be called by the chairman on his own motion or on request of any five (5) members. Except in the case of an emergency, notice of the time and place of each meeting shall be given to each member at least five (5) days prior to the date of the meeting. Every meeting of the commission shall be held at some suitable place in one (1) of the twelve (12) counties in which the Great River Road is situated, except that any meeting may be held at any other suitable place upon majority vote of the members of the commission. Any four (4) members of the commission shall constitute a quorum for the purpose of transacting any business of the commission.

SOURCES: Codes, 1942, § 5984.5; Laws, 1962, ch. 256, §§ 1-9.

§ 55-5-57. Compensation of members.

The members of the commission shall receive no compensation for their services on the commission. Members of the commission shall be reimbursed for actual and necessary expenses incurred in attending the regular meetings of the state commission or the annual or any special meeting of the National Commission. Such expenses shall be paid upon vouchers signed by the chairman of the commission.

SOURCES: Codes, 1942, § 5984.5; Laws, 1962, ch. 256, §§ 1-9; Laws, 1975, ch. 368, eff from and after passage (approved March 20, 1975).

§ 55-5-59. Relationship with National Commission and Mississippi Highway Department.

The commission shall be an affiliate of the National Commission and shall cooperate with and assist the National Commission in promoting interest in, and the development and use of, the Great River Road as designated by the Federal Bureau of Roads. The commission shall also serve in an advisory capacity to the Mississippi Highway Department. The chairman of the commission shall be the Mississippi representative on the National Commission.

SOURCES: Codes, 1942, § 5984.5; Laws, 1962, ch. 256, §§ 1-9.

§ 55-5-61. Assistance of commission by state agencies.

The Mississippi Transportation Commission shall designate one (1) employee of the Transportation Department who is an engineer or who has engineering experience, and the Mississippi Commission on Wildlife, Fisheries and Parks shall appoint one (1) member of the Mississippi Department of

Wildlife, Fisheries and Parks staff, who shall advise with and assist the commission in carrying out its functions and duties under Sections 55-5-51 through 55-5-63.

SOURCES: Codes, 1942, § 5984.5; Laws, 1962, ch. 256, §§ 1-9; Laws, 2000, ch. 516, § 120, eff from and after passage (approved Apr. 30, 2000.)

Cross References — Mississippi Commission on Wildlife, Fisheries and Parks created, see § 49-4-4.

Mississippi Department of Wildlife, Fisheries and Parks created, see § 49-4-6.

Mississippi Department of Wildlife, Fisheries and Parks powers and duties, see §§ 55-3-33 through 55-3-83.

Mississippi Transportation Department generally, see §§ 65-1-1 et seq.

Mississippi Transportation Commission created, authority and powers, see §§ 65-1-3, 65-1-8.

§ 55-5-63. Erection of signs along Great River Road.

The state highway commission is hereby authorized and directed to erect and maintain signs designating the route of the Great River Road through Mississippi. The signs used to designate the route shall be the standard marker developed and approved for the Great River Road by the National Commission.

SOURCES: Codes, 1942, § 5984.5; Laws, 1962, ch. 256, §§ 1-9.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

CHAPTER 7

Bridge and Park Commissions

Sec.
55-7-1. Purpose of chapter.
55-7-3. General grant of authority to certain municipalities and counties.
55-7-5. Creation of commission; composition; qualifications, appointment, terms of office, oath, and bond of members.
55-7-7. Organization; vacancies; commissioners not to be pecuniarily interested in activities of commission; meetings.
55-7-9. Compensation of members of commission.
55-7-11. General powers of commission.
55-7-13. Acquisition of lands by commission; authorization.
55-7-15. Acquisition of lands by commission; confirmation of title to submerged lands.
55-7-17. Construction, operation, etc., of bridges, ferries, causeways, and tunnels by commission.
55-7-19. Improvement, etc., of lands acquired by commission.
55-7-21. Leasing and sale of lands and interests acquired by commission.
55-7-23. Power to fix and collect rates, fees, charges and tolls for use of services and facilities.
55-7-25. Employment of personnel by commission.
55-7-27. Dredging, etc., of channels.
55-7-29. Acceptance of federal aid and assistance.
55-7-31. Disposition of revenues of commission.
55-7-33. Issuance of bonds by commission generally.
55-7-35. Imposition of tax levy for payment of bonds.
55-7-37. Division of ad valorem taxes on commission's property.
55-7-39. Details of bonds; execution and sale of bonds.
55-7-41. Security for payment of bonds generally.
55-7-43. Pledge of income, revenues and grants for payment of bonds; contents of bond issue resolution.
55-7-45. Pledge of or payments from revenue derived through Section 65-33-45.
55-7-47. Validation of bonds.
55-7-49. Rates, fees, charges, and tolls for services or use of facilities.
55-7-51. Enforcement of rights of bondholders.
55-7-53. Incorporation of islands into municipality.
55-7-55. Cooperation with other state entities.
55-7-57. Construction of chapter; authority and powers conferred.
55-7-59. Construction of chapter; cumulative and supplemental; repeal or impairment of other laws.

§ 55-7-1. Purpose of chapter.

Since the continuing and growing economic and commercial development of navigation, harbor facilities, boat and related facilities along, in or near the navigable waters of the state is of general importance to the whole state and should be encouraged and assisted by legislative enactment, this chapter is hereby enacted.

SOURCES: Codes, 1942, § 5974-01; Laws, 1960, ch. 434, § 1; Laws, 1962, ch. 216, § 1, eff from and after passage (approved June 1, 1962).

§ 55-7-3. General grant of authority to certain municipalities and counties.

The governing authorities of any municipality bordering on the Mississippi Sound or Gulf of Mexico in which there is situated and located, in whole or in part, a port or harbor through which commerce flows, and having in its corporate limits one or more industries engaged in the seafood industry, and the governing authorities of any county in the State of Mississippi bordering on the Mississippi Sound or the Gulf of Mexico in which county there is or may hereafter be located a municipality having a harbor or port of entry where commodities are exported to foreign nations and in which county the assessed valuation is more than thirty-five million dollars ($35,000,000.00) and less than ninety million dollars ($90,000,000.00), are hereby given the authority to engage in, either directly or through the commission provided for and designated in this chapter, in cooperation and conjunction with such other agencies or commissions as may be now or hereinafter provided by law, works of internal improvement, and of promoting, developing, constructing, maintaining and operating harbors or seaports within the state and its jurisdiction, and are otherwise vested with full power and authority to do and perform, either directly or through said commission, all of the acts, functions and things set forth in this chapter.

SOURCES: Codes, 1942, § 5974-01; Laws, 1960, ch. 434, § 1; Laws, 1962, ch. 216, § 1, eff from and after passage (approved June 1, 1962).

Cross References — Jurisdiction and powers of county board of supervisors generally, see § 19-3-41.

Powers of municipalities generally, see § 21-17-1.

Power of certain counties and municipalities to develop and maintain parks, athletic, cultural, educational and recreational complexes, see §§ 55-9-21 et seq.

Power of board of supervisors of any county to create a county park commission and establish a county park system, see §§ 55-9-81 et seq.

County and municipal harbors generally, see §§ 59-7-1 et seq.

County funds for roads and bridge, see §§ 65-15-1 et seq.

Bridges generally, see Chapters 21, 23, and 25 of Title 65.

Ferries generally, see Chapters 27 and 29 of Title 65.

RESEARCH REFERENCES

ALR. Power of municipal corporation to exchange its real property. 60 A.L.R.2d 220.

Relative rights, as between municipality and abutting landowners, to minerals, oil, and gas underlying streets, alleys, or parks. 62 A.L.R.2d 1311.

§ 55-7-5. Creation of commission; composition; qualifications, appointment, terms of office, oath, and bond of members.

Such municipality and/or such county shall have the authority to establish by ordinance a bridge and park commission as a municipal agency of said municipality or as a county agency of said county to be known and designated as the "bridge and park commission."

Such bridge and park commission, where it is a municipal agency, shall be composed of five (5) commissioners who shall be residents of the municipality and qualified electors therein, and shall be appointed by the governing authorities of said municipality. Such bridge and park commission, where it is a county agency, shall be composed of five (5) commissioners who shall be residents of the county and qualified electors therein, and shall be appointed by the governing authorities of said county.

At the time of the first appointment, one (1) of the commissioners shall be appointed for a term of one (1) year, one (1) shall be appointed for a term of two (2) years, one (1) shall be appointed for a term of three (3) years, one (1) shall be appointed for a term of four (4) years, and one (1) shall be appointed for a term of five (5) years, until his successor shall have been appointed and qualified. Thereafter, one (1) commissioner shall be appointed annually for a term of five (5)years, and until his successor shall have been appointed and qualified.

Said commissioners shall take the oath of office required by Section 268 of the Constitution of the State of Mississippi.

Said commissioners shall give bond payable to the municipality, where it is a municipal agency, or to the county, where it is a county agency, in an amount to be fixed by the appropriate governing authorities.

SOURCES: Codes, 1942, § 5974-01; Laws, 1960, ch. 434, § 1; Laws, 1962, ch. 216, § 1, eff from and after passage (approved June 1, 1962).

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 12.

CJS. 64 C.J.S., Municipal Corporations §§ 1549, 1557.

§ 55-7-7. Organization; vacancies; commissioners not to be pecuniarily interested in activities of commission; meetings.

Promptly upon the appointment of the commission and annually thereafter, the commission shall organize by the election of one of its members as president and one of its members as vice-president, and shall select a treasurer and a secretary who may or may not be members of the commission, and who may be the same person. Such treasurer and secretary shall perform the usual duties of such officers and such other duties as may from time to time be prescribed by the commission, and shall receive such compensation as may be fixed by the commission, payable, however, solely from the funds received by the commission.

Vacancies in the membership of the commission shall be filled by appointment for the unexpired term by the governing authorities of the municipality or of the county, as the case may be.

No commissioner shall be pecuniarily interested, directly or indirectly, in any contract for work to be done by or for the commission, or in the purchase or sale of any properties by or for the commission, and any such contract, purchase or sale in which any commissioner shall be so interested, directly or indirectly, shall be null and void as to such commissioner, his successors or assigns.

The commission shall have power to establish the time of its regular meetings and to provide for the call of special meetings by the president or by any two members of the commission. Any special meeting at which all commissioners are present shall be conclusively deemed to have been properly called, and action taken at such meeting shall be valid and binding. All meetings of the municipal commission shall be open to the public and shall be held at the city hall in the municipality or other meeting place of the governing authority of the municipality. All meetings of the county commission shall be open to the public and shall be held at the courthouse in the county or other meeting place of the governing authority of the county.

SOURCES: Codes, 1942, § 5974-03; Laws, 1960, ch. 434, § 3, eff from and after passage (approved May 3, 1960).

§ 55-7-9. Compensation of members of commission.

Each member of the commission created under the provisions of this chapter shall receive as compensation twenty-five dollars ($25.00) per day while engaged in attendance of meetings of the commission or engaged in other duties of the commission, not to exceed one hundred fifty (150) days in any one (1) year. Each member shall receive his actual traveling expenses, to be audited and allowed by the commission.

SOURCES: Codes, 1942, § 5974-02; Laws, 1960, ch. 434, § 2, eff from and after passage (approved May 3, 1960).

§ 55-7-11. General powers of commission.

The bridge and park commission shall have power to sue and be sued, contract and be contracted with, to adopt and alter a corporate seal, and to exercise the power of eminent domain to acquire private property necessary for the accomplishment of the purposes for which such commission is created.

SOURCES: Codes, 1942, § 5974-02; Laws, 1960, ch. 434, § 2, eff from and after passage (approved May 3, 1960).

Cross References — Eminent domain generally, see §§ 11-27-1 et seq.
Acquisition of lands by commission, see § 55-7-13.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 12.

§ 55-7-13. Acquisition of lands by commission; authorization.

The bridge and park commission shall have the power, among others, in the case of the municipal agency, to acquire for park, recreational, harbor development and other similar purposes, by the exercise of eminent domain or otherwise, and by gift, grant or purchase, for any purpose of this chapter, an island or islands, in whole or in part, situated in the Gulf of Mexico or in the Mississippi Sound, and lying within three leagues of the nearest point of the corporate limits of the municipality involved; and, in the case of the county agency, to acquire for park, recreational, harbor development and other similar purposes by the exercise of eminent domain or otherwise, and by gift, grant or purchase, for any purpose of this chapter, an island or islands, in whole or in part, situated in the Gulf of Mexico or in the Mississippi Sound, and lying within the boundaries of the county involved.

Said commission shall have the power to acquire, by eminent domain, gift, grant or purchase, such portion or portions of such island or islands as it may find to be needed for use in developing and financing the public improvements set forth in this chapter. Prior to the acquisition of any such real estate, the commission shall, by resolution spread upon its minutes, find, determine and adjudicate that the property to be so acquired is needed to aid in the financing of the improvements under this chapter.

Any such commission which has acquired an island or islands, in whole or in part, adjacent to any submerged lands belonging to the State of Mississippi may purchase from the State of Mississippi a sufficient amount of such submerged lands to be reclaimed and added to such island or islands to be used, and developed for the purposes provided in this chapter. The state land commissioner, with the approval of the attorney general and the governor, is hereby authorized and empowered to sell and convey such submerged lands to such commission and to issue the state's patent thereto. Said commission shall have the power to dredge, fill in and reclaim submerged lands adjacent to any such island or islands and to develop and utilize the same for any of the purposes set forth in this chapter, including the financing of the authorized public improvements. However, no normal or natural channel shall be obstructed so as to interfere with the normal navigation therein, it being the purpose and intention of this chapter to authorize the use and development of shallow bottoms and shoal waters in the areas herein set out for the purpose of filling and reclaiming same for the purposes herein set forth and where said bottoms are not susceptible to reasonable navigation at all times as a practical matter.

SOURCES: Codes, 1942, § 5974-04; Laws, 1960, ch. 434, § 4; Laws, 1962, ch. 216, § 2; Laws, 1964, 1st Ex. Sess. ch. 20; Laws, 1966, ch. 274, § 1, eff from and after passage (approved February 3, 1966).

Editor's Note — Section 7-11-4 provides that the words "state land commissioner," "land commissioner," "state land office" and "land office" shall mean the secretary of state.

Cross References — Eminent domain generally, see §§ 11-27-1 et seq.

Acquisition of submerged lands by commission and confirmation of title, see § 55-7-15.

Improvement, etc. of lands acquired by commission, see § 55-7-19.

Leasing and sale of lands acquired by commission, see § 55-7-21.

Issuance of bonds by bridge and park commission, see § 55-7-33.

Commission property may be pledged by commission as security for bonds issued by Commission, see § 55-7-41.

Incorporation of islands into municipality, see § 55-7-53.

JUDICIAL DECISIONS

1. In general.

The conveyance in fee simple by the State of Mississippi of 150 acres of submerged lands lying adjacent to Deer Island in Mississippi Sound in the Gulf of Mexico to a municipal bridge and park commission was valid and not a violation of the common law trust under which the state holds title to all submerged lands within its boundaries, where the proposed filling and development of such lands by the grantee would not interfere with the public rights of fishing and navigation, and would in fact constitute an aid to navigation. Treuting v. Bridge & Park Comm'n, 199 So. 2d 627 (Miss. 1967).

RESEARCH REFERENCES

ALR. Power of municipal corporation to exchange its real property. 60 A.L.R.2d 220.

Relative rights, as between municipality and abutting landowners, to minerals, oil, and gas underlying streets, alleys or parks. 62 A.L.R.2d 1311.

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 54, 62, 73.

59 Am. Jur. 2d, Parks, Squares, and Playgrounds §§ 7, 12.

CJS. 29A C.J.S., Eminent Domain §§ 33, 47, 58.

§ 55-7-15. Acquisition of lands by commission; confirmation of title to submerged lands.

The bridge and park commission which has acquired submerged lands, and before such lands have been reclaimed, shall bring its suit in the chancery court of the county in which such lands lie, against the state and all the world for confirmation of the commission's title to such submerged lands, as provided by law for the confirmation of patents issued by the state. Upon the hearing of such cause, if the court shall find that the reclamation of the said lands does not constitute an obstruction of the navigable waters of the state and does not interfere with the rights of the public generally to use the navigable waters of the state for fishing, boating, and other public uses, and that the reclamation and sale of said lands has or will, in whole or in part, contribute toward the deepening of a channel or channels for boats and improvement of navigation of any of the navigable waters of this state, and that a fair and adequate consideration has been paid or is to be paid for such property, then the court shall confirm the title to the property and forever set at rest any claims by the State of Mississippi in its sovereign capacity as proprietor of said lands.

Any of the parties of the suit may appeal as in other proceedings in chancery, provided any interlocutory appeal is taken within ten (10) days after the rendition of the decree from which the appeal is desired and provided that any final appeal is taken within sixty (60) days from the date of the rendition of the final decree. Any title perfected by a decree in a suit under this section shall forever estop and preclude the state and other parties from thereafter questioning the validity of the patent and deed involved in such proceedings.

SOURCES: Codes, 1942, § 5974-04; Laws, 1960, ch. 434, § 4; Laws, 1962, ch. 216, § 2; Laws, 1964, 1st Ex. Sess. ch. 20; Laws, 1966, ch. 274, § 1, eff from and after passage (approved February 3, 1966).

Cross References — Suits to confirm state land patents, see §§ 11-17-3 et seq.
Authorization of commission to acquire lands, see § 55-7-13.
Improvement, of lands acquired by commission, see § 55-7-19.
Leasing and sale of lands acquired by commission, see § 55-7-21.
Issuance of bonds by commission, see § 55-7-33.

JUDICIAL DECISIONS

1. In general.

The conveyance in fee simple by the State of Mississippi of 150 acres of submerged lands lying adjacent to Deer Island in Mississippi Sound in the Gulf of Mexico to a municipal bridge and park commission was valid and not a violation of the common law trust under which the state holds title to all submerged lands within its boundaries, where the proposed filling and development of such lands by the grantee would not interfere with the public rights of fishing and navigation, and would in fact constitute an aid to navigation. Treuting v. Bridge & Park Comm'n, 199 So. 2d 627 (Miss. 1967).

§ 55-7-17. Construction, operation, etc., of bridges, ferries, causeways, and tunnels by commission.

The bridge and park commission shall have power to construct, build, maintain, operate, reconstruct and repair a bridge or bridges, a ferry or ferries, a causeway or causeways, or a tunnel or tunnels, or any combination thereof, connecting any island acquired, in whole or in part, by the commission, with the mainland. The point of connection of any such bridge, causeway or tunnel with the mainland may be within or without the corporate limits of the municipality in the case of a municipal agency and may be within or without the county limits of the county in the case of a county agency. Said commission shall further have the power to acquire by a gift, grant, purchase, the exercise of eminent domain, or otherwise, land for approaches to any such bridge, ferry, causeway or tunnel, and to construct, build, maintain, operate, reconstruct and repair approaches to any such bridge, ferry, causeway or tunnel connecting any such island or part thereof with the mainland.

SOURCES: Codes, 1942, § 5974-04; Laws, 1960, ch. 434, § 4; Laws, 1962, ch. 216, § 2; Laws, 1964, 1st Ex. Sess. ch. 20; Laws, 1966, ch. 274, § 1, eff from and after passage (approved February 3, 1966).

Cross References — Eminent domain generally, see §§ 11-27-1 et seq.
Authorization of commission to acquire lands, see § 55-7-13.
Acquisition of submerged lands by commission and confirmation of title, see § 55-7-15.

Improvement, of lands acquired by commission, see § 55-7-19.

Leasing and sale of lands acquired by commission, see § 55-7-21.

Rates, fees, charges and tolls for use of bridge, tunnel, etc. constructed and operated by commission, see § 55-7-23.

Issuance of bonds by bridge and park commission, see § 55-7-33.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 54, 62, 73.

59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 12.

CJS. 29A C.J.S., Eminent Domain §§ 33, 47, 58.

§ 55-7-19. Improvement, etc., of lands acquired by commission.

The bridge and park commission shall have power to establish, acquire, complete, enlarge, ornament, build, rebuild and improve in, or on, or about any island or part thereof, acquired by the commission, public parks, boulevards, bridges, viaducts and approaches thereto, wharves, piers, harbors, marinas, jetties, air landing fields, basins, short protection works, pleasure grounds and ways, walks, pathways, driveways, roadways, highways, and all public works, grounds or improvements, buildings, field houses, stadiums, shelters, conservatories, schools, golf courses, museums, service shops, power plants, structures, playground devices, boulevard and building lighting systems, water systems, sewer systems and all of the types of permanent improvements and construction necessary to render the property under the control of said commission usable for the enjoyment thereof as public parks, parkways, boulevards, and pleasureways, or otherwise, as provided in this chapter.

SOURCES: Codes, 1942, § 5974-04; Laws, 1960, ch. 434, § 4; Laws, 1962, ch. 216, § 2; Laws, 1964, 1st Ex. Sess. ch. 20; Laws, 1966, ch. 274, § 1, eff from and after passage (approved February 3, 1966).

Cross References — Authorization of commission to acquire lands, see § 55-7-13.

Acquisition of submerged lands by commission and confirmation of title, see § 55-7-15.

Leasing and sale of lands acquired by commission, see § 55-7-21.

Issuance of bonds by bridge and park commission, see § 55-7-33.

RESEARCH REFERENCES

ALR. Power of municipal corporation to exchange its real property. 60 A.L.R.2d 220.

Relative rights, as between municipality and abutting landowners, to minerals, oil, and gas underlying streets, alleys or parks. 62 A.L.R.2d 1311.

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 12.

39 Am. Jur. Trials, Golf Cart Accidents, §§ 1 et seq.

§ 55-7-21. Leasing and sale of lands and interests acquired by commission.

(1) The park and bridge commission shall have power to lease or sell to private persons or corporations, real estate or any interest therein, acquired by said commission, whether improved or unimproved, and including reclaimed or filled-in lands, whenever it shall find such real estate or interest therein is or has become unnecessary for park or recreational purposes for the benefit of the public, or for other public use, and in the event of sale, to convey to the grantee, fee simple title to such real estate. Prior to the leasing or conveyance of any such real estate, the commission shall, by resolution spread upon its minutes, find, determine and adjudicate that the property, to be so leased or sold and conveyed, is, or has become unnecessary for park and recreational purposes for the benefit of the public, or other public use. Such findings, determination and adjudication shall be final and conclusive and shall not thereafter be questioned in any court. However, lands acquired by eminent domain under the provisions of this chapter may not be sold, and may not be leased except for public purposes and continuing public uses, and when such lands cease to be used for public purposes, the title to same shall revert to the former owners, or their successors or assigns.

(2) The bridge and park commission shall have power to sell or lease to private persons, or corporations, real estate other than the submerged lands reclaimed by it, whether improved or unimproved, whenever it shall find such real estate is or has become unnecessary for park, recreational or harbor development purposes for the benefit of the public, and to convey to the grantee the fee simple title to such real estate. Said commission shall have the power to lease the submerged lands reclaimed by it for a period not exceeding ninety-nine (99) years upon such terms and provisions and for such consideration as it may determine. After any of such lands have been developed, if the commission finds, by resolution spread on its minutes, that it is impractical to lease the same and that it is more advantageous to the public interest to sell such lands, the commission shall have the power to sell the same in fee simple. Prior to the conveyance or lease of any such real estate, the commission shall, by resolution spread upon its minutes, find, determine and adjudicate that the property so to be conveyed or leased is or has become unnecessary for park, recreational or harbor development purposes for the benefit of the public.

SOURCES: Codes, 1942, § 5974-04; Laws, 1960, ch. 434, § 4; Laws, 1962, ch. 216, § 2; Laws, 1964, 1st Ex. Sess. ch. 20; Laws, 1966, ch. 274, § 1, eff from and after passage (approved February 3, 1966).

Cross References — Authorization of commission to acquire lands, see § 55-7-13.

Acquisition of and confirmation of title to submerged lands by commission, see § 55-7-15.

Improvement, of lands acquired by commission, see § 55-7-19.

Disposition of revenues of commission, see § 55-7-31.

Issuance of bonds by commission, see § 55-7-33.

Division of ad valorem taxes levied on real property acquired by commission and leased or sold pursuant to this section, see § 55-7-37.

Commission property may be pledged by commission as security for bonds issued by commission, see § 55-7-41.

JUDICIAL DECISIONS

1. In general.

The authority granted by subsection (1) of this section [Code 1942, § 5974-04] to a municipal bridge and park commission to sell to private persons, after filling and development, such portions of the submerged lands it had acquired from the State of Mississippi which were not required for public purposes constituted an incident to the overall public interests and purposes for which the conveyance was made and did not violate the common law trust under which the lands had formerly been held by the state for the benefit of the public generally. Treuting v. Bridge & Park Comm'n, 199 So. 2d 627 (Miss. 1967).

RESEARCH REFERENCES

ALR. Power of municipal corporation to exchange its real property. 60 A.L.R.2d 220.

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds §§ 12, 29.

CJS. 64 C.J.S., Municipal Corporations §§ 1551-1554, 1560.

§ 55-7-23. Power to fix and collect rates, fees, charges and tolls for use of services and facilities.

The bridge and park commission shall have the power to fix and collect rates, fees, charges, and tolls for the use of any bridge, tunnel or causeway constructed and operated by it and for the use of any other service or facility provided by it.

SOURCES: Codes, 1942, § 5974-04; Laws, 1960, ch. 434, § 4; Laws, 1962, ch. 216, § 2; Laws, 1964, 1st Ex. Sess. ch. 20; Laws, 1966, ch. 274, § 1, eff from and after passage (approved February 3, 1966).

Cross References — Construction, operation, etc., of bridges, ferries, causeways and tunnels by commission, see § 55-7-17.

Pledge of income, revenues for payment of bonds, see § 55-7-43.

Establishment of rates, fees, charges and tolls, see § 55-7-49.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 12.

§ 55-7-25. Employment of personnel by commission.

The bridge and park commission shall have power to appoint and employ such officers, agents, attorneys, engineers, architects, financial consultants, and employees as the commission may find to be necessary to perform the services required and authorized under this chapter, and to prescribe the duties and compensation of all such persons. The compensation of all such persons shall be paid from funds received by the commission.

SOURCES: Codes, 1942, § 5974-04; Laws, 1960, ch. 434, § 4; Laws, 1962, ch. 216, § 2; Laws, 1964, 1st Ex. Sess. ch. 20; Laws, 1966, ch. 274, § 1, eff from and after passage (approved February 3, 1966).

Cross References — Issuance of bonds by commission, see § 55-7-33.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 12.

§ 55-7-27. Dredging, etc., of channels.

The bridge and park commission shall have the power and is authorized, in connection with its work of development and functions as provided in this chapter, to dredge, deepen and widen any adjacent or existing channels, when this may be done consistently with and in aid of normal navigation and harbor development in the area, being authorized to deposit the spoil, and fill in the bottoms contiguous and adjoining the island, or parts thereof, authorized to be filled in and reclaimed, for the purposes of this chapter.

SOURCES: Codes, 1942, § 5974-04; Laws, 1960, ch. 434, § 4; Laws, 1962, ch. 216, § 2; Laws, 1964, 1st Ex. Sess. ch. 20; Laws, 1966, ch. 274, § 1, eff from and after passage (approved February 3, 1966).

Cross References — Issuance of bonds by bridge and park commission, see § 55-7-33.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 12.

§ 55-7-29. Acceptance of federal aid and assistance.

Notwithstanding any provision in this chapter to the contrary, the bridge and park commission shall have the power and is authorized, in connection with its work of development and functions as provided in this chapter, to accept contributions or loans from the United States, or a federal department, instrumentality, or agency for financing or aiding in the financing of the cost of preliminary investigations and studies, surveys, plans and specifications, procedures and other action preliminary to construction, and the construction, maintenance and operation of anything authorized in this chapter.

The commission may enter into contracts and cooperate with the United States or a federal department, instrumentality, or agency in the making of preliminary investigations, studies and surveys, preparation of plans and specifications and in the accomplishment of procedures and other action preliminary to construction, and the construction, maintenance and operation, and in financing or aiding in financing the cost of preliminary investigations and studies, surveys, plans and specifications, procedures and other action preliminary to construction and of the construction, maintenance, and operation of anything authorized in this chapter. The commission may do any and all things necessary to avail itself of such aid and cooperation, so long as such action is in strict accordance with the laws of the State of Mississippi.

SOURCES: Codes, 1942, § 5974-04; Laws, 1960, ch. 434, § 4; Laws, 1962, ch. 216, § 2; Laws, 1964, 1st Ex. Sess. ch. 20; Laws, 1966, ch. 274, § 1, eff from and after passage (approved February 3, 1966).

Cross References — Authority of commission to enter into contracts, see § 55-7-11.

Authorization of commission to acquire lands, see § 55-7-13.

Acquisition of submerged lands by commission and confirmation of title, see § 55-7-15.

Construction, operation, etc. of bridges, ferriers, causeways and tunnels by commission, see § 55-7-17.

Improvement, etc. of lands acquired by commission, see § 55-7-19.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 12.

§ 55-7-31. Disposition of revenues of commission.

All revenues, income and moneys received by the bridge and park commission shall be deposited in the depository or depositories which shall be selected by the governing authorities of the municipality or county, in the same manner as depositories are selected for said municipality or county, and shall at all times be secured in the manner provided by law for the securing of deposits of municipalities or counties. Any such depository shall hold such funds in an account in all respects separate and distinct from the accounts in which the other funds of the municipality or county are held, and separate and distinct from all other accounts. In the event that bonds should be issued, as hereinafter provided in this chapter, payable from the income of the commission, then such depository shall hold, manage and account for the funds of the commission in accordance with any resolution authorizing such bonds adopted by the bridge and park commission.

SOURCES: Codes, 1942, § 5974-05; Laws, 1960, ch. 434, § 5, eff from and after passage (approved May 3, 1960).

Cross References — Establishment of county depositories, see §§ 27-105-303, 27-105-333.

Selection of municipal depositories, see § 27-105-353.

§ 55-7-33. Issuance of bonds by commission generally.

For the purpose of providing funds for the corporate purposes of the bridge and park commission, the commission shall have power to borrow money and to issue its bonds in evidence thereof, payable from the income and revenues derived and to be derived from the operation of any of the facilities acquired, owned and operated by the commission, including, without limiting, the generality of the rates, fees, charges and tolls to be charged for the use of any bridge or causeway or for the service and use of any facility operated by the commission, from any sums received from concessionaires and lessees, and from any sums received from the sale, lease or rental of real estate. Any indebtedness so created or any bonds so issued shall not become an obligation or liability of the municipality or of the county nor shall the power of taxation of said city or said county be pledged to the payment thereof nor shall any of the funds of the municipality or county be used or expended for the payment of any such bonds either as to principal or interest, except as hereafter set forth in this chapter. No limitations of indebtedness upon the issuance of bonds by any political subdivision, municipal corporation or county in the State of Mississippi shall apply to the bonds hereby authorized.

SOURCES: Codes, 1942, § 5974-06; Laws, 1960, ch. 434, § 6; Laws, 1962, ch. 216, § 3, eff from and after passage (approved June 1, 1962).

Cross References — Uniform system for issuance of county bonds, see §§ 19-9-1 et seq.

Uniform system for issuance of municipal bonds, see §§ 21-33-301 et seq.

Leasing and sale of lands acquired by commission, see § 55-7-21.

Rates, fees, charges, and tolls for use of bridges, tunnels, etc., constructed and operated by commission, see § 55-7-23.

Imposition of tax levy for payment of bonds, see § 55-7-35.

Bond details, execution and sale, see § 55-7-39.

Security for payment of bonds, see § 55-7-41.

Pledge of income, revenues and grants for payment of bonds, see § 55-7-43.

Validation of bonds, see § 55-7-47.

Enforcement of rights of bondholders, see § 55-7-51.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 98, 99, 386, 388 et seq.

§ 55-7-35. Imposition of tax levy for payment of bonds.

If the bridge and park commission shall determine by order entered upon its minutes and the governing authorities of the municipality or county concerned concur in the findings of the commission by order entered upon its minutes that in order to render the bonds to be issued under Section 55-7-33 salable or to obtain a more favorable rate of interest, that the tax levy hereby authorized is required, then the governing authorities of the municipality or county are authorized to provide for an annual levy during the life of the bonds issued hereunder, not to exceed four mills, upon all of the taxable property within the municipality or county in order to provide additional funds for the payment of the principal and interest of said bonds, and for the sinking funds as may be provided for by the resolution authorizing the issuance of the bonds.

However, before the governing authorities of the municipalities or counties shall make any tax levy as authorized in this section, such levy shall be authorized by a sixty percent (60%) majority of the qualified electors of the municipality or county voting in a special election held in the manner provided by law.

If bonds are issued payable partially from ad valorem taxes, it shall be the duty of the governing authorities of the municipality or county to levy a tax sufficient each year, together with pledged revenues other than the taxes authorized hereunder, to pay the bonds and interest thereon as such bonds and interest become due, and to provide the sinking funds set forth in the order authorizing the issuance thereof. However, in no event shall a tax levied exceed the amount authorized in the first instance by the governing authorities of the municipality or county. Any part of this tax levy lost through homestead exemption shall not be reimbursed by the state.

If during any year all or any portion of the levy authorized hereby is not necessary to pay the principal and interest of the bonds falling due during the succeeding calendar year and to provide the sinking fund or funds required, and the commission and governing authorities of the municipality or county so find, by order entered upon their minutes, such levy shall not be made for that year to the extent that it is not necessary for such purposes.

As used in this section the word "taxes" shall include, but without limitation, all levies on an ad valorem basis upon land or real property.

SOURCES: Codes, 1942, § 5974-06; Laws, 1960, ch. 434, § 6; Laws, 1962, ch. 216, § 3, eff from and after passage (approved June 1, 1962).

Cross References — Issuance of bonds by commission, see § 55-7-33.
Division of ad valorem taxes on commission's property, see § 55-7-37.
Bond details, authorizing resolution, execution, sale, see § 55-7-39.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations § 387.

§ 55-7-37. Division of ad valorem taxes on commission's property.

Any ad valorem taxes levied each year by or for the benefit of any city, county, city and county, district, or other public corporation (hereinafter sometimes called "taxing agencies"), upon any real property which is acquired by the commission and leased or sold to private persons or corporations pursuant to Section 55-7-21, after the date of acquisition of said real property by the commission, shall be divided as follows:

(1) Portion of taxes based on last assessment roll before acquisition of property by the commission. That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of said taxing agencies upon the total sum of the assessed value of the taxable property acquired by the commission as shown upon the assessment roll used in connection with the taxation of such property by such taxing agency, last equalized prior to the date of acquisition by the commission, shall be allocated to and when collected shall be paid into the funds of the respective taxing agencies as taxes by or for said taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the property acquired by the commission on the effective date or otherwise acquired, the assessment roll of the county last equalized on the date of acquisition by the commission shall be used in determining the assessed valuation of the taxable property in the project on said effective date); and

(2) Portion of taxes in excess of amount. That portion of said levied taxes each year in excess of such amount shall be allocated to and when collected shall be paid into a special fund of the commission to pay the principal of and interest on any bonds or securities issued by the commission pursuant to its authority under this chapter. Unless and until the total assessed valuation of the taxable property acquired by the commission exceeds the total assessed value of the taxable property as shown by the last equalized assessment roll referred to in paragraph No. (1) hereof, all of the taxes levied and collected upon the taxable property shall be paid into the funds of the respective taxing agencies. When said bonds or securities issued by the commission pursuant to its authority under this chapter have been paid, all moneys thereafter received from taxes upon the taxable property acquired by the commission shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

In any proceedings for the issuance of any bonds or securities by the commission to finance or refinance, in whole or in part, any activities under this chapter, the portion of the taxes mentioned in paragraph No. (2), may be irrevocably pledged for the payment of the principal of and interest on said bonds or securities.

SOURCES: Codes, 1942, § 5974-06; Laws, 1960, ch. 434, § 6; Laws, 1962, ch. 216, § 3, eff from and after passage (approved June 1, 1962).

§ 55-7-39. Details of bonds; execution and sale of bonds.

Any such bonds authorized by Section 55-7-33 shall be authorized by a resolution adopted by the bridge and park commission, shall bear interest at such rate or rates, not exceeding, however, six percent (6%) per annum, shall be in such denomination or denominations, shall be payable both as to principal and interest at such place or places and shall mature at such time or times not exceeding forty (40) years from the date thereof, all as may be provided by such resolution. If so specified in such resolution, such bonds may be redeemable prior to their respective maturities with or without premium and on such notice as shall be provided for by such resolution. Such bonds may be sold at public or private sale for such price or prices as the commission shall determine, provided the interest cost to maturity of the money received from any issue of said bonds or other obligations shall not exceed six percent (6%) per annum. If any such bonds are sold at less than par, then the price to be paid therefor shall be such that the interest cost to the commission on the money actually received for such bonds shall not exceed six percent (6%) per annum computed to their absolute maturity according to standard bond value tables. Such bonds shall be executed in such a manner as may be directed in the resolution which authorized the bonds. Interest coupons to be attached to such bonds may be executed by facsimile signatures.

SOURCES: Codes, 1942, § 5974-07; Laws, 1960, ch. 434, § 7; Laws, 1962, ch. 216, § 4, eff from and after passage (approved June 1, 1962).

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 148 et seq., 346-348.

§ 55-7-41. Security for payment of bonds generally.

The bridge and park commission, in the issuance of any bonds or securities pursuant to its authority under this chapter, or any other statute, may, in its discretion, authorize and have inserted in such bonds or securities a provision to the effect that such bonds or securities shall constitute a lien upon all or any specified portion of the property which the commission is authorized to transfer, convey or sell to private individuals, with right of foreclosure of such lien to be vested in the holder or holders of such securities or bonds, upon terms and conditions such as may be approved by said commission and set out in such securities or bonds, and such provisions thus approved and inserted therein shall constitute and effect a valid lien on the property as specified. Further, all or any part of the proceeds from the authorized transfer, conveyance or sale of lots or other property of the commission to private individuals may be pledged by the commission, in its discretion, as security for any bonds or other securities lawfully issued or to be issued by it, upon such terms and conditions as said commission may provide.

SOURCES: Codes, 1942, § 5974-07; Laws, 1960, ch. 434, § 7; Laws, 1962, ch. 216, § 4, eff from and after passage (approved June 1, 1962).

Cross References — Leasing and sale of lands acquired by commission, see § 55-7-21.

Issuance of bonds by commission, see § 55-7-33.

Pledge of income, revenues, grants for payment of bonds, see § 55-7-43.

§ 55-7-43. Pledge of income, revenues and grants for payment of bonds; contents of bond issue resolution.

Whenever bonds are issued by the bridge and park commission under this chapter, an amount of the income, revenues or grants from all sources received by the commission, after the deduction of the necessary expenses of operating and maintaining the facilities and properties of said commission, shall be pledged in an amount sufficient for the purpose of the payment of the principal of and interest on said bonds as the same shall mature and accrue. The resolution authorizing such bonds shall contain such covenants as may be deemed necessary or advisable for the assurance of payment of the bonds thereby authorized and may contain such restrictions upon the issuance of additional bonds by the commission as may be deemed advisable. Such resolution may direct the depository in which funds of the commission are held to remit to the paying agent designated for such bonds specified periodic remittances without further direction or authorization by the commission and may provide for the establishment of funds for operation and maintenance, for depreciation, for the payment of principal and interest and for contingencies, and may provide for the setting aside of amounts over and above those necessary for current debt service so as to provide and produce a reserved fund to meet any possible deficiency in future years.

SOURCES: Codes, 1942, § 5974-08; Laws, 1960, ch. 434, § 8; Laws, 1962, ch. 216, § 5, eff from and after passage (approved June 1, 1962).

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 384 et seq.

§ 55-7-45. Pledge of or payments from revenue derived through Section 65-33-45.

No bonds issued under the provisions of this chapter shall be secured by pledge of or be paid, either as to principal or interest, from, any revenue derived through Section 65-33-45.

SOURCES: Codes, 1942, § 5974-08.5; Laws, 1962, ch. 216, § 6, eff from and after passage (approved June 1, 1962).

§ 55-7-47. Validation of bonds.

Any bonds which may be authorized to be issued by the bridge and park commission may be submitted to validation as provided by Sections 31-13-1 through 31-13-11, Mississippi Code of 1972.

SOURCES: Codes, 1942, § 5974-09; Laws, 1960, ch. 434, § 9, eff from and after passage (approved May 3, 1960).

Cross References — Issuance of bonds by commission, see § 55-7-33.
Bond details authorizing resolution, execution, sale, see § 55-7-39.

§ 55-7-49. Rates, fees, charges, and tolls for services or use of facilities.

Whenever such bonds are issued by the bridge and park commission, the rates, fees, charges and tolls to be established for the use of any bridge or causeway or for the services or use of any of the facilities owned or operated by the commission, or to be received by it from concessionaires or lessees, and from the lease or sale of any lands under the control of the commission and other sources, shall be such as to produce an aggregate amount sufficient at all times to pay the cost of operation and maintenance of any bridge, causeway or other property or facility of the commission, to pay the principal of and the interest on all bonds issued by the commission as the same shall mature and accrue, and to provide adequate reserve and contingent funds.

SOURCES: Codes, 1942, § 5974-10; Laws, 1960, ch. 434, § 10, eff from and after passage (approved May 3, 1960).

Cross References — Authorization of commission to fix and collect rates, fees, charges and tolls, see § 55-7-23.

§ 55-7-51. Enforcement of rights of bondholders.

The holder of any bond issued by the bridge and park commission or of any coupon attached thereto, may in any civil action, mandamus or other proceedings enforce and compel all duties required of the commission or any officer thereof by this chapter or by resolution authorizing issuance of bonds hereunder, including the establishment and collection of adequate rates, fees, charges and tolls, and the performance of any duties imposed upon the commission or any of its members or officers by the resolution authorizing such bonds, and such action shall lie, regardless of whether or not the bonds shall, at the time of such action, be in default either as to principal or interest, in the event that the commission or any of its officers or members shall fail to perform the duties or obligations imposed on it or them by the resolution which authorized such bonds. If there be any default in payment of the interest on any principal of any of said bonds, any court having jurisdiction in the proper action, may, upon petition of the holder of any of such bonds, appoint a receiver to administer and operate the system, consisting of the park, recreational and harbor area and facilities, all bridges, buildings, improvements, and related facilities in connection therewith, with the power to fix rates and collect charges sufficient to provide for the payment of all bonds outstanding to the payment of which the revenues of such system are pledged and to pay the expenses of operating and maintaining such system and to apply the revenues of such system in conformity with the provisions of this chapter, and of the order or resolution authorizing the issuance of such bonds.

SOURCES: Codes, 1942, § 5974-11; Laws, 1960, ch. 434, § 11, eff from and after passage (approved May 3, 1960).

Cross References — Issuance of bonds by commission, see § 55-7-33.
Bond details, authoring resolution, execution, sale, see § 55-7-39.
Pledge of income, revenues, grants for payment of bonds, see § 55-7-43.
Establishment of rates, fees, charges, tolls, see § 55-7-49.

§ 55-7-53. Incorporation of islands into municipality.

In connection with the exercise of the right and authority granted under the terms of this chapter, any municipality involved shall have the right to incorporate the island or islands aforesaid, in whole or in part, into the municipality in the same manner and upon compliance with the same conditions precedent now provided by statute for the incorporation of adjacent lands into municipalities in this state.

SOURCES: Codes, 1942, § 5974-12; Laws, 1960, ch. 434, § 12, eff from and after passage (approved May 3, 1960).

Cross References — Incorporation into municipality of adjacent unincorporated territory, see §§ 21-1-27 et seq.
Acquisition of lands by commission, see § 55-7-13.

§ 55-7-55. Cooperation with other state entities.

In connection with any harbor development and in connection with the construction of causeways, bridges, tunnels or approaches to the development as provided for in this chapter, the municipality or county and the bridge and park commission shall have full power and authority to cooperate with and provide the same in conjunction or jointly and in connection with any other commission or political body created and existing under the laws of the State of Mississippi, including the State of Mississippi. Said joint construction or undertaking shall be upon such terms as may be agreed upon by the political bodies or entities involved and shall be carried out in such manner that there may be no conflict as between the political bodies or subdivision involved.

SOURCES: Codes, 1942, § 5974-14; Laws, 1960, ch. 434, § 14, eff from and after passage (approved May 3, 1960).

§ 55-7-57. Construction of chapter; authority and powers conferred.

This chapter, without reference to any other chapter or statute, shall be deemed to be full and complete authority for the establishment of the bridge and park commission of the municipality or of the county, for the performance of any of the powers and duties granted or imposed upon such commission or its officials, and for the issuance of bonds, as provided in this chapter. None of the present restrictions or requirements, additions or limitations of the law applicable to the issuance or sale of bonds by political corporations or subdivisions of the State of Mississippi shall apply to the issuance and sale of bonds under this chapter. No proceedings shall be required for the execution of any of the purposes of this chapter or for the issuance of any bonds pursuant to this chapter other than those provided for and required herein. All powers necessary to be exercised by the governing authorities of the municipality and/or the governing authorities of the county and by the bridge and park commission or its officers or members, in order to carry out the provisions of this chapter, are hereby conferred.

SOURCES: Codes, 1942, § 5974-13; Laws, 1960, ch. 434, § 13, eff from and after passage (approved May 3, 1960).

§ 55-7-59. Construction of chapter; cumulative and supplemental; repeal or impairment of other laws.

This chapter shall be cumulative and supplemental to other laws having reference to port and harbor development.

This chapter shall not repeal or impair any law now in effect, except as herein specifically provided, and shall be liberally construed so as to accomplish the clear purposes of the chapter.

SOURCES: Codes, 1942, §§ 5974-01, 5974-14; Laws, 1960, ch. 434, §§ 1, 14; Laws, 1962, ch. 216, § 1, eff from and after passage (approved June 1, 1962).

CHAPTER 9

County and Municipal Facilities

Development of Recreational Facilities in Certain Counties and Municipalities 55-9-1
Recreational Districts in Certain Counties and Municipalities 55-9-21
Employment of Recreational Supervisors and Purchase of Recreational Equipment in Certain Counties 55-9-51
County Park System 55-9-81

DEVELOPMENT OF RECREATIONAL FACILITIES IN CERTAIN COUNTIES AND MUNICIPALITIES

Sec.
55-9-1. General grant of authority; issuance of bonds generally.
55-9-3. Applicability of debt limitations to bond issues.
55-9-5. Applicability of other laws to bond issues.

§ 55-9-1. General grant of authority; issuance of bonds generally.

The board of supervisors of any county in which there are located, or in which there is a desire to locate, recreational centers, stadiums, lakes, waterfowl or game management areas or parks or any one or more of the aforesaid, or the board of supervisors of any county adjoining a county in which there are located, or in which there is a desire to locate, such recreational centers, stadiums, lakes, waterfowl or game management areas or parks or any one or more of the aforesaid, or the governing authority of any municipality having a population of thirty-five hundred (3500) or more located in any of said counties, are hereby empowered, in addition to all other powers given them by law, to (a) issue bonds for the purpose of securing money to build and equip recreational centers, stadiums, lakes, waterfowl or game management areas or parks or any one or more of the aforesaid, operating alone or as a unit, or in conjunction with the Mississippi Department of Wildlife, Fisheries and Parks or other agency of the State of Mississippi, and to (b) acquire by lease, purchase, eminent domain, donation, or otherwise, sites therefor. The county and the municipalities, or either of them, either with or without assistance from some agency of the State of Mississippi or the United States government, may enter jointly or separately into the construction of such recreational centers, stadiums, lakes, waterfowl or game management areas or parks, and into the acquisition of sites therefor, from the sale of bonds issued separately by the counties and the municipalities for such purposes. Such recreational centers, stadiums, lakes, waterfowl or game management areas or parks, or sites therefor, may be located on land owned by the county or counties, municipality or municipalities, or by the State of Mississippi, or on lands leased to the county or counties, municipality or municipalities, or by the State of Mississippi, or on lands leased to the county or counties or municipality or municipalities jointly, or to either of them, or may be located on lands owned by the United States Forestry Service. Any bonds issued hereunder by a county shall be subject to and compliance had with Sections 19-9-1 through 19-9-31, Mississippi Code of 1972, and any bonds issued hereunder by a municipality shall be subject to and in compliance with Sections 21-33-301 through 21-33-329, Mississippi Code of 1972.

Bonds issued under the provisions of this section may be full faith and credit bonds, and may be retired in whole or in part by the proceeds or a part of same earned by such recreational facilities or parks.

The governing authority of any such county or municipality without the issuance of bonds, or in addition to the issuance of bonds, may use any available surplus funds for constructing, equipping, maintaining and operating such recreational centers, stadiums, lakes, waterfowl or game management areas or parks.

SOURCES: Codes, 1942, § 5975; Laws, 1940, ch. 271; Laws, 1958, chs. 191, 207; Laws, 1962, ch. 208; Laws, 1964, ch. 565, § 1; Laws, 2000, ch. 516, § 121, eff from and after passage (approved Apr. 30, 2000.)

Cross References — Eminent domain generally, see §§ 11-27-1 et seq.
International Gardens of Mississippi, see §§ 55-17-1 et seq.
Bienville Recreational District, see §§ 55-19-1 et seq.

ATTORNEY GENERAL OPINIONS

County could spend funds to renovate leased property for park which was destroyed by tornado, taking into consideration duration of lease and amount of rental paid, if improvements are not so extensive as to constitute a donation to the owner; however, county could not then sublease park back to owner. Trapp, July 8, 1993, A.G. Op. #93-0458.

Power is vested in a county to lease a building for use as a community center, but the lease cannot bind the county beyond the term of the present board of supervisors; also, the county may lease property from a private entity under terms which would grant the county less than exclusive use of the premises, but it cannot make what would amount to an unauthorized donation by erecting or constructing a building on property is has leased for a time that is less than the expected life or depreciation of the building. Hall, January 9, 1998, A.G. Op. #97-0809.

A county may donate funds to a municipality for the establishment, operation, and maintenance of a municipal park within the donating county when, by the terms of the donation, such park is available to all citizens of the county. Shaw, August 14, 1998, A.G. Op. #98-0471.

The statute permitted a county to enter into an agreement with the Mississippi Department of Wildlife, Fisheries and Parks for a period of 20 years for boat ramp maintenance upon property leased from a city. Entrekin, Dec. 17, 1999, A.G. Op. #99-0675.

A county may enter into an interlocal agreement under which the county would agree to use county equipment and personnel to assist in the maintenance and operation of a recreational facility, including a rails-to-trails program. Hollimon, Mar. 23, 2001, A.G. Op. #01-0081.

A county board of supervisors can authorize the contribution of money and services to a municipality for purchasing and installation of playground equipment in a municipal park to be utilized by all citizens. Griffin, Apr. 26, 2002, A.G. Op. #02-0200.

A county may enter into a 99-year lease for real property and construct a recreational facility on such property provided the improvements are not so extensive as to constitute a donation to the lessor, and provided the lease contains terms which guaranty that the full value of the improvements inure to the county upon any termination of the lease. Dulaney, Apr. 9, 2004, A.G. Op. 04-0153.

A county may acquire right-of-way for and construct sidewalks beside county roads and designate them as part of the county's park system for walking/jogging/bicycling/recreating such that funding would be permitted from the county general fund under this section or other related public park/recreation authority. Hollimon, June 4, 2004, A.G. Op. 03-0616.

A county may participate with a municipality within the county in a sidewalk construction project along city streets as part of a street project under § 65-7-85 or a public park project under this section or an urban renewal project under § 43-35-1 et. seq., or any other authority using monies from either the general fund or the road and bridge fund. Hollimon, June 4, 2004, A.G. Op. 03-0616.

A county may lease property from a non-profit corporation for a nominal amount and may expend funds for the upkeep of the property to the extent that those expenditures do not exceed a reasonable rental payment. The county may also employ a non-profit corporation to manage and operate the park in accordance with the rules and regulations of the board and may allow the non-profit to retain concession profits and admission fees, as authorized by the board, as payment for such services. Chamberlin, Aug. 13, 2004, A.G. Op. 04-0318.

A board of supervisors, through a duly adopted interlocal governmental cooperation agreement with a municipal public school district, may construct or provide funds to construct a playground or park on property owned by the municipal school district for recreational use by the school and by all citizens of the county. Meadows, Aug. 20, 2004, A.G. Op. 04-0368.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds §§ 1 et seq.

CJS. 64 C.J.S., Municipal Corporations §§ 1818 et seq.

§ 55-9-3. Applicability of debt limitations to bond issues.

The bonds authorized to be issued by a county or municipality pursuant to Section 55-9-1 shall not be in excess of the respective debt limits as now or hereafter provided by the laws of the State of Mississippi.

SOURCES: Codes, 1942, § 5976; Laws, 1940, ch. 271.

Cross References — Uniform System for issuance of county bonds, see §§ 19-9-1 et seq.

Uniform System for issuance of municipal bonds, see §§ 21-33-301 et seq.

§ 55-9-5. Applicability of other laws to bond issues.

The laws applicable to the issuance of bonds by a county or by a municipality shall apply to the respective issuance of bonds pursuant to Section 55-9-1, except that an election therefor may be called without the filing of petitions therefor by the qualified electors of either the county or municipality, and that such bonds may be issued, provided a majority of the qualified electors voting in the elections called for that purpose shall vote for the issuance of such bonds.

SOURCES: Codes, 1942, § 5977; Laws, 1940, ch. 271.

Cross References — Uniform system for issuance of county bonds, see §§ 19-9-1 et seq.

Uniform system for issuance of municipal bonds, see §§ 21-33-301 et seq.

RECREATIONAL DISTRICTS IN CERTAIN COUNTIES AND MUNICIPALITIES

SEC.	
55-9-21.	Declaration of purpose.
55-9-23.	General grant of authority.
55-9-25.	Definitions.
55-9-27.	Procedure for formation of recreational district.
55-9-29.	General powers of recreational district.
55-9-31.	Appointment, bond, terms of office and compensation of members of project board of commissioners; board authority.
55-9-33.	Exercise of police power within project.
55-9-35.	Issuance of bonds for projects.
55-9-37.	Funds for projects.

§ 55-9-21. Declaration of purpose.

The purpose of Sections 55-9-21 through 55-9-37 is to further the interest of the general education, health and welfare of the people of the State of Mississippi now and in the future.

SOURCES: Codes, 1942, § 5977-09; Laws, 1968, ch. 269, § 9, eff from and after passage (approved August 7, 1968).

Cross References — Power of the board of supervisors of any county to create a county park commission and establish a county park system, see §§ 55-9-81 et seq.

ATTORNEY GENERAL OPINIONS

A city and the county may create a recreational district pursuant to Section 55-9-21 et seq. and jointly hold title to the property, which would allow the county to qualify for a grant. Gowan, September 6, 1996, A.G. Op. #96-0573.

§ 55-9-23. General grant of authority.

Any Class 4 county, according to the 1967 tabulation of classification of counties by the State Tax Commission, which has two judicial districts, and any Class 1 county bordering on the Mississippi River on the west and the State of Tennessee on the north, and traversed by Interstate 55, any county adjoining such counties, and any municipality located in any of such counties, may purchase, lease or acquire by gift, land and waters within this state, and develop and maintain thereon parks, athletic, cultural, educational and recreational complexes.

SOURCES: Codes, 1942, § 5977-01; Laws, 1968, ch. 269, § 1; Laws, 1994, ch. 361, § 1, eff from and after passage (approved March 14, 1994).

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds §§ 1 et seq.

CJS. 64 C.J.S., Municipal Corporations §§ 1557 et seq.

§ 55-9-25. Definitions.

(a) Any park or athletic, cultural, educational or recreational complex formed under the provisions of Sections 55-9-21 through 55-9-37, shall be termed a "project."

(b) The political subdivision forming such project, whether municipality or county, shall be termed "political subdivision."

(c) The political subdivisions which form, constitute or contribute to said project shall be termed "recreational district."

SOURCES: Codes, 1942, § 5977-02; Laws, 1968, ch. 269, § 2, eff from and after passage (approved August 7, 1968).

§ 55-9-27. Procedure for formation of recreational district.

Any such political subdivision desiring to either form alone or in conjunction with others any recreational district, or to become a part thereof, may do so by its governing board adopting a resolution declaring its intention to either form or become a part of such recreational district. Such resolution shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper having general circulation in the political subdivision. The first publication of such resolution shall be made not less than twenty-one (21) days prior to the date fixed in such resolution for hearing objections thereto, and the last publication shall be made not more than seven (7) days prior to such date. If twenty percent (20%) or fifteen hundred (1500), whichever is least, of the qualified electors of the political subdivision shall file a written protest against such political subdivision forming or becoming a part of such recreational district on or before the date specified in such resolution, then an election on the question shall be called and held as provided by law on bond issue questions. If no such protest be filed, then such political subdivision may either form or become a part of such recreational district.

SOURCES: Codes, 1942, § 5977-06; Laws, 1968, ch. 269, § 6, eff from and after passage (approved August 7, 1968).

RESEARCH REFERENCES

Am Jur. 14 Am. Jur. Legal Forms 2d, Parks, Squares, and Playgrounds § 192:58 (ballot proposition-for establishment of park district).

§ 55-9-29. General powers of recreational district.

Any recreational district under the provisions of Sections 55-9-21 through 55-9-37 may authorize any project constituted thereunder to acquire, enlarge, expand, own, operate, lease and dispose of properties to the end that such project may be able to promote the public interest and welfare in the participation in arts, education, culture, sports, athletics and recreational activity, and to acquire, develop, provide and improve public parks and lakes in this state, including all buildings, facilities and improvements incident thereto or useful in connection therewith, including but without limitation, picnic areas, campsites, trailer sites, cabins, lodges, roads and trails for hiking, bicycling, or horseback riding, nature trails, botanical gardens, zoos, museums, athletic fields, golf courses, tennis and badminton courts, bowling alleys, skeet, trap rifle and archery ranges, swimming pools, bathhouses, beaches, docks and marinas, boating facilities, areas and facilities for fishing and hunting, areas and facilities for aquatic entertainment and sports, stadiums, coliseums, arenas, grandstands, auditoriums, meeting halls, pavilions, and centers for cultural entertainment, music, drama, exhibitions, and exhibits, amphitheaters, administrative or office buildings and facilities, and improvements thereon, and facilities and improvements for the accommodation and transportation of visitors to such public parks. However, no recreational district shall be authorized to operate as a commercial enterprise any shop, store, motel or restaurant. Such recreational district shall be furthermore authorized to provide within any project health centers, hospitals, and to do and perform such acts, and engage in such activities as will promote the general education, health and welfare of the people of the State of Mississippi.

SOURCES: Codes, 1942, § 5977-08; Laws, 1968, ch. 269, § 8, eff from and after passage (approved August 7, 1968).

RESEARCH REFERENCES

ALR. Governmental liability from operation of zoo. 92 A.L.R.3d 832.

Liability of local government entity for injury resulting from use of outdoor playground equipment at municipally owned park or recreation area. 73 A.L.R.4th 496.

Am Jur. 39 Am. Jur. Trials, Golf Cart Accidents, §§ 1 et seq.

§ 55-9-31. Appointment, bond, terms of office and compensation of members of project board of commissioners; board authority.

The project shall be in charge of a board of commissioners, not less than five (5) in number, nor more than fifteen (15), all of whom shall be adult resident citizens of the State of Mississippi, and each of whose terms shall be for a period of four (4) years, and who shall be appointed by the political subdivision or subdivisions constituting the recreational district. The board shall be in charge of all business and official affairs of such project, and shall be answerable only to the governing authorities of the political subdivision or subdivisions forming the recreational district. No member of any board of commissioners of any project shall be either interested directly or indirectly in any commercial enterprise operating thereon.

Such board shall have the authority to do and perform the following, but shall not be limited thereto: lease facilities or tracts of realty in said district for commercial enterprises, or other educational, athletic, cultural or recreational pursuits, to acquire by lease, purchase or gift additional realty for the project, to employ personnel in the operation and management of said project, and, in general, to have charge and control of all of the affairs and activities within said project. No land within said project may be leased for a period of longer than sixty (60) years.

Each member of the board shall be required by the political subdivision or subdivisions forming such recreational district to give bond, with sufficient surety, to be payable, conditioned and approved as provided by law, in a penalty not less than Fifty Thousand Dollars ($50,000.00).

No member of the board shall receive any salary for acting as a member thereof, but the recreational district may authorize reasonable payment for attendance at meetings of the board of commissioners, and reasonable expenses in carrying out the duties of such board, including travel and lodging.

SOURCES: Codes, 1942, § 5977-04; Laws, 1968, ch. 269, § 4; Laws, 1986, ch. 458, § 42; Laws, 2009, ch. 467, § 20, eff from and after July 1, 2009.

Editor's Note — Laws of 1986, ch. 458, § 48, provided that § 55-9-31 would stand repealed from and after October 1, 1989. Subsequently, three 1989 chapters (341, 342, and 343) amended Laws of 1986, ch. 458, § 48, by deleting the date for repeal.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 12.

§ 55-9-33. Exercise of police power within project.

The project shall be subject to the police power of the political subdivision or subdivisions forming the recreational district.

SOURCES: Codes, 1942, § 5977-03; Laws, 1968, ch. 269, § 3, eff from and after passage (approved August 7, 1968).

§ 55-9-35. Issuance of bonds for projects.

The political subdivision or subdivisions constituting the recreational district shall be authorized to issue and sell revenue or full faith and credit bonds for any project formed under the provisions of Sections 55-9-21 through 55-9-37 in the same manner as they are now authorized by law to issue and sell such bonds for any other public purpose.

SOURCES: Codes, 1942, § 5977-05; Laws, 1968, ch. 269, § 5, eff from and after passage (approved August 7, 1968).

Cross References — Uniform system for issuance of county bonds, see §§ 19-9-1 et seq.

Uniform system for issuance of municipal bonds, see §§ 21-33-301 et seq.

§ 55-9-37. Funds for projects.

The political subdivision or subdivisions constituting the recreational district shall be authorized to set aside, appropriate and expend moneys from the general fund for the acquisition, development, support or maintenance of any project formed under the provisions of Sections 55-9-21 through 55-9-37.

SOURCES: Codes, 1942, § 5977-07; Laws, 1968, ch. 269, § 7; Laws, 1986, ch. 400, § 43, eff from and after October 1, 1986.

EMPLOYMENT OF RECREATIONAL SUPERVISORS AND PURCHASE OF RECREATIONAL EQUIPMENT IN CERTAIN COUNTIES

Sec.
55-9-51. General grant of authority.
55-9-53. County recreational commission.
55-9-55. Cooperation with municipalities.
55-9-57. Payment of expenditures.

§ 55-9-51. General grant of authority.

(1) The board of supervisors of any county having a population of more than one hundred thousand (100,000) inhabitants, according to the latest federal census, is authorized and empowered, in its discretion, to employ recreational supervisors for public parks and/or playgrounds located in said county, to pay to each recreational supervisor a salary of three hundred dollars ($300.00) per month, and to expend a sum not exceeding ten thousand dollars ($10,000.00) annually for the purchase and installation of recreational equipment in such public parks and/or playgrounds. However, no sum in excess of two thousand, five hundred dollars ($2,500.00) shall be expended for the purchase and installation of recreational equipment in any one (1) supervisors district in any one (1) year.

(2) The board of supervisors of any county having as many as seven (7) municipalities located therein, in whole or in part, and in which there is located a Natchez Trace Parkway Housing Authority and a government fish hatchery, may, in its discretion, employ recreational supervisors for public parks and/or playgrounds located in said county, expend a total sum not exceeding three thousand, six hundred dollars ($3,600.00) annually for their salaries and expenses, and expend a sum not exceeding one thousand dollars ($1,000.00) annually for the purchase and installation of recreational equipment in such parks and/or playgrounds.

SOURCES: Codes, 1942, § 5977.5; Laws, 1950, ch. 296, §§ 1, 2; Laws, 1956, ch. 201, § 1; Laws, 1958, ch. 210, § 1; Laws, 1960, ch. 202; Laws, 1962, ch. 209.

Cross References — Creation of county recreational commission in county specified in this section, see § 55-9-53.

Cooperation with municipalities, see § 55-9-55.

All monies authorized to be expended under the provisions of this section, to be paid from the general fund of the county, see § 55-9-57.

§ 55-9-53. County recreational commission.

The board of supervisors of any county specified in Section 55-9-51(1) may, in its discretion, create, by resolution spread at large upon its minutes, a commission to be known as the county recreational commission with authority to study the recreational needs of the youth of the county and to recommend to said board the most appropriate expenditure of funds authorized to be expended in said section. Any such commission shall be composed of fifteen (15) members, three (3) members to be appointed from each supervisor's district within the county, who shall be residents of the county and appointed by the board for a term of four (4) years; provided, that one (1) member from each district shall be appointed for an initial term of two (2) years, one (1) member from each district shall be appointed for an initial term of three (3) years, and one (1) member from each district shall be appointed for an initial term of four (4) years. All appointments thereafter shall be for a term of four (4) years. All members of the commission shall serve without pay.

SOURCES: Codes, 1942, § 5977.5; Laws, 1950, ch. 296, §§ 1, 2; Laws, 1956, ch. 201, § 1; Laws, 1958, ch. 210, § 1; Laws, 1960, ch. 202; Laws, 1962, ch. 209; Laws, 1975, ch. 335, eff from and after passage (approved March 10, 1975).

JUDICIAL DECISIONS

1. In general.

Provisions of § 55-9-53 were violated where the record did not show any attempt to establish or operate either a park or a golf course under a county park commission. Cumbest v. State, 456 So. 2d 209 (Miss. 1984).

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 12.

§ 55-9-55. Cooperation with municipalities.

The boards of supervisors specified in Section 55-9-51 are authorized to work in conjunction with the various municipalities in carrying out the provisions of Sections 55-9-51 through 55-9-57.

SOURCES: Codes, 1942, § 5977.5; Laws, 1950, ch. 296, §§ 1, 2; Laws, 1956, ch. 201, § 1; Laws, 1958, ch. 210, § 1; Laws, 1960, ch. 202; Laws, 1962, ch. 209.

§ 55-9-57. Payment of expenditures.

All monies authorized to be expended under the provisions of Sections 55-9-51 through 55-9-57 shall be paid from the general fund of such counties affected thereby.

SOURCES: Codes, 1942, § 5977.5; Laws, 1950, ch. 296, §§ 1, 2; Laws, 1956, ch. 201, § 1; Laws, 1958, ch. 210, § 1; Laws, 1960, ch. 202; Laws, 1962, ch. 209.

COUNTY PARK SYSTEM

Sec.	
55-9-81.	Creation of commission; composition; members.
55-9-83.	Operating funds; general powers of commission.
55-9-85.	Employees of commission; operation of facilities; fees.
55-9-87.	Cooperation of commission with other authorities.
55-9-89.	Insurance; purchases and contracts; reports.
55-9-91.	Construction.
55-9-93.	Appropriation and expenditure of funds.

§ 55-9-81. Creation of commission; composition; members.

The board of supervisors of any county may create a county park commission and appoint five (5) members thereto who shall be designated as park commissioners. Each member of the commission shall be a qualified elector of the county, and there shall be one (1) member from each supervisors district. The terms of the members shall be concurrent with the supervisors, and they shall receive such compensation as may be provided by the board. The commission shall elect one (1) of its members as chairman of such commission and another of them as treasurer, and the treasurer shall give bond in such amount as the board of supervisors shall require payable to the county.

The board of supervisors of such county shall have the power to remove any member of such commission for inefficiency or incompetency, or for any other just cause.

SOURCES: Laws, 1974, ch. 494, § 1, eff from and after passage (approved April 2, 1974).

Cross References — Authority of certain counties to establish bridge and park commission, see §§ 55-7-1 et seq.

Power of certain counties and municipalities to develop and maintain parks, athletic, cultural, educational and recreational complexes, see §§ 55-9-21 et seq.

ATTORNEY GENERAL OPINIONS

The jurisdiction of a county park commission is not affected by a municipality's annexation of territory, wherein one or more county parks have been established by the commission. Peranich, June 17, 1992, A.G. Op. #92-0409.

According to Miss. Code Section 55-9-81, County Park Commission consists of five members appointed by county board of supervisors. Blackmon, Feb. 25, 1993, A.G. Op. #93-0060.

The board of supervisors may operate a

county park, including a county golf course which includes a concession stand, either through a county park commission established pursuant to Section 55-9-81 and following of the Mississippi Code, or under its own supervision, which may be delegated to the county administrator pursuant to Section 19-4-7. Mullins, March 22, 1996, A.G. Op. #96-0127.

The governing authorities of a county may abolish or dissolve a park commission by repealing the ordinance creating the commission. Pierce, June 12, 1998, A.G. Op. #98-0245.

Jurisdiction of a county park commission is not affected by a municipality's annexation of territory which includes one or more parks established by the park commission; the county retains the title to a county park in an area annexed by a municipality, and the board of supervisors has jurisdiction over the county park, just as they have jurisdiction over other county property within the corporate limits, such as the courthouse, county office buildings, or county barns. Snyder, Oct. 13, 2000, A.G. Op. #2000-0585.

A county or county park commission may contract construction and management of a county park to a third party, including a nonprofit corporation, but must first advertise and let the project for public bids under Miss. Code Ann. § 31-7-13. Allen, March 30, 2007, A.G. Op. #07-00106, 2007 Miss. AG LEXIS 95.

§ 55-9-83. Operating funds; general powers of commission.

The board of supervisors of such county may allocate and pay to such park commission annually such funds as may in their discretion be necessary properly to operate and maintain parks and outdoor recreation facilities. All funds in the hands of the park commission shall be placed in the county depository and shall be considered county funds.

The park commission shall devote all moneys allocated for such purpose by the county governing authorities, by gift, by revenue, or from any other source, for the payment of all maintenance and operating expenses, the purchase of parks and equipment, the erection and construction of buildings, the repair and replacement thereof, and for the extension of recreational facilities for the wholesome and healthful recreation of all citizens of the county.

The county park commission shall have full jurisdiction of all funds coming into its possession either by allocation by the board of supervisors or by gift or by revenue derived from the operation of said parks, and shall have authority to make all contracts in relation to the same.

The county park commission shall have authority to make bylaws for the holding and conducting of its meetings and such other regulations as it may deem necessary for the safe, economic and efficient management of such parks and providing for wholesome and healthful recreation to all the citizens of such county.

SOURCES: Laws, 1974, ch. 494, § 2, eff from and after passage (approved April 2, 1974).

Cross References — Authority of commission to make and collect fees for park use, see § 55-9-85.

Cooperation of commission with other authorities in establishing maintaining and operating any public park or recreational facility, see § 55-9-87.

Authority to insure all property, carry property damage, other casualty insurance, see § 55-9-89.

§ 55-9-85. Employees of commission; operation of facilities; fees.

The county park commission shall have authority to employ a park superintendent or manager who shall have actual charge of such parks and the enforcement and execution of all rules, regulations, and the direction of all programs and festivities, and the operation of all devices for recreation installed therein.

The commissioners are authorized to elect such other officers and appoint such employees as may be necessary to maintain the said parks, and shall have entire control and management of said parks, playgrounds and swimming pools together with all property connected or in anywise appertaining to the same. Further, they shall have the right to fix the salaries of all employees and to direct them in the discharge of their duties; they shall have the right to discharge employees when found inefficient or for other good cause.

The county park commission shall have the power to make and collect fees for use of the park and for the use of any other amusement device that may be installed as well as the leasing of concessions or privileges for the sale of soft drinks, confections, popcorn, peanuts or other such articles; or such commission may operate such business.

SOURCES: Laws, 1974, ch. 494, § 3, eff from and after passage (approved April 2, 1974).

Cross References — County park commission to have full jurisdiction of all funds derived from operation of parks, see § 55-9-83.

ATTORNEY GENERAL OPINIONS

Pursuant to Miss. Code Section 55-9-85, if members of parks and recreation commission find that purchase or rental of work uniforms for its maintenance employees will promote efficient maintenance and operation of county parks, as means of identifying public park employees, then they may do so provided such is accomplished in accordance with state purchasing laws. Sherard, Apr. 21, 1993, A.G. Op. #93-0209.

RESEARCH REFERENCES

ALR. Negligent discharge of employee. 53 A.L.R.5th 219.

§ 55-9-87. Cooperation of commission with other authorities.

The county park commission may cooperate and join with the governing authority of any municipality or any park commission or authority created and authorized by the governing authority of any municipality in establishing, maintaining and operating any public park or recreation facility or facilities, and may cooperate and join with the board of supervisors of any other county or a county park commission created by authority of such board of supervisors of another county in establishing, maintaining and operating any public park or recreation facility or facilities.

SOURCES: Laws, 1974, ch. 494, § 4, eff from and after passage (approved April 2, 1974).

§ 55-9-89. Insurance; purchases and contracts; reports.

The county park commission is authorized to insure all property against loss by fire and tornado, and to carry property damage and other miscellaneous casualty insurance, as in the discretion of said commission may be deemed proper, and pay premiums therefor out of the funds appropriated by the board of supervisors or revenues derived in the operation of such parks.

The conduct of business and all purchases and contracts made and entered into by a park commission created under Sections 55-9-81 through 55-9-93 shall be governed by the provisions of Title 19, Chapter 13, Mississippi Code of 1972. They shall purchase all supplies for said parks, in the manner now provided by law for the purchase of such supplies by the board of supervisors, and shall issue vouchers in payment therefor. They shall report quarterly to the board of supervisors of the county all their doings and transactions of any kind whatsoever, and shall make a complete statement of the financial condition of such park commission at the end of each quarter, and shall annually make a detailed statement covering the entire management and operation of said parks, and may make any recommendations which they may have for further development of such parks.

SOURCES: Laws, 1974, ch. 494, § 5; Laws, 1984, ch. 495, § 23; reenacted and amended, Laws, 1985, ch. 474, § 27; Laws, 1986, ch. 438, § 36; Laws, 1987, ch. 483, § 37; Laws, 1988, ch. 442, § 34; Laws, 1989, ch. 537, § 33; Laws, 1990, ch. 518, § 34; Laws, 1991, ch. 618, § 34; Laws, 1992, ch. 491 § 36, eff from and after passage (approved May 12, 1992).

Cross References — Immunity of state and political subdivisions from liability and suit for torts and torts of its employees, see §§ 11-46-1 et seq.

Participation in a comprehensive plan of one or more policies of liability insurance, see § 11-46-17.

RESEARCH REFERENCES

ALR. Liability or indemnity insurance carried by governmental unit as affecting immunity from tort liability. 68 A.L.R.2d 1437.

Liability of governmental entity for damage to motor vehicle or injury to person riding therein resulting from collision between vehicle and domestic animal at large in street or highway. 52 A.L.R.4th 1200.

Am Jur. 57 Am. Jur. 2d, Municipal, County, School, and State Tort Liability §§ 21, 28.

§ 55-9-91. Construction.

Sections 55-9-81 through 55-9-93 shall be liberally construed to promote the efficient maintenance and operation of county parks and recreation facilities to the end that it may result in the improvement of the outdoor recreation facilities and parks of the county.

SOURCES: Laws, 1974, ch. 494, § 6, eff from and after passage (approved April 2, 1974).

ATTORNEY GENERAL OPINIONS

Pursuant to Miss. Code Section 55-9-91, if members of parks and recreation commission find that purchase or rental of work uniforms for its maintenance employees will promote efficient maintenance and operation of county parks, as means of identifying public park employees, then they may do so, provided such is accomplished in accordance with state purchasing laws. Sherard, Apr. 21, 1993, A.G. Op. #93-0209.

§ 55-9-93. Appropriation and expenditure of funds.

The board of supervisors is hereby authorized and empowered to set aside, appropriate and expend moneys from the general fund for the purpose of constructing, supporting and maintaining parks, playgrounds and recreational facilities in such county, and the funds so appropriated shall be used for no purpose except as provided in Sections 55-9-81 through 55-9-93.

SOURCES: Laws, 1974, ch. 494, § 7; Laws, 1986, ch. 400, § 44, eff from and after October 1, 1986.

CHAPTER 11

Harrison County Parkway

Sec.

55-11-1. Creation and composition of Harrison County Parkway Commission; qualifications and appointment of members of commission.
55-11-3. Oath of members of commission; organization; officers.
55-11-5. Meetings; compensation of members of commission.
55-11-7. General powers and duties of commission.
55-11-9. Approval and adoption of plans for landscaping and beautification.
55-11-11. Purchases and contracts.
55-11-13. Title to and use of property rights.
55-11-15. Adoption of regulations and ordinances.
55-11-17. Acquisition, appropriation and expenditure of funds.
55-11-19. Applicability of laws relating to municipal budgets.
55-11-21. Title to improvements.

§ 55-11-1. Creation and composition of Harrison County Parkway Commission; qualifications and appointment of members of commission.

The Harrison County Parkway Commission is hereby created to be composed of six (6) commissioners. Five (5) of the commissioners shall be appointed by the Governor in the following manner: each of the municipalities of Biloxi, Gulfport, Long Beach and Pass Christian, acting through a majority of the governing authorities of each, shall recommend the appointment of one (1) commissioner, and a majority of the members of the board of supervisors of said county shall recommend one (1), and the commissioners so recommended shall be appointed by the Governor. Any qualified elector of Harrison County shall be eligible as a member of said commission and may be selected from either of the supervisors districts of said county. It shall not be requisite that the person recommended by the governing authorities of any of said municipalities be a resident citizen of such municipalities.

The Governor shall be ex-officio chairman of the commission.

SOURCES: Codes, 1942, § 6004; Laws, 1938, ch. 287.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 12.

§ 55-11-3. Oath of members of commission; organization; officers.

Said commissioners, when so appointed, shall take the oath of office prescribed in Section 268 of the Constitution and shall meet at the county courthouse of Harrison County, at a date to be fixed by the Governor, to organize and select an active chairman and a secretary. The active chairman shall preside over all meetings, in the absence of the Governor, and shall have full authority to act as chairman of said commission in all matters, except at meetings presided over by the Governor as ex-officio chairman. It shall be the duty of the secretary to keep and preserve minutes of the meetings of the commission for which service a reasonable compensation may be allowed and paid.

SOURCES: Codes, 1942, § 6005; Laws, 1938, ch. 287.

Cross References — Governor to be ex-officio chairman of commission, see § 55-11-1.

§ 55-11-5. Meetings; compensation of members of commission.

The commission shall meet at the county courthouse, or at any other place designated in the notice of meeting, at any time upon call of the chairman or secretary by written notice mailed at least 48 hours before the time fixed for meeting, or without notice upon the attendance of all of the members, except the ex-officio chairman. Said commissioners shall receive five dollars ($5.00) per day compensation for each day, while engaged in attendance upon meetings of the commission, or engaged in other duties of the commission, and they shall receive their actual traveling expenses in attending meetings and engaged in the duties of the commission, to be paid out of the general fund of Harrison County.

SOURCES: Codes, 1942, § 6006; Laws, 1938, ch. 287.

§ 55-11-7. General powers and duties of commission.

The commission shall have and is hereby vested with full authority and jurisdiction to create a public parkway of the area, or any part thereof, in Harrison County, Mississippi, extending from Point Cadet on the east to Third Street in Henderson's Point addition on the west, lying between the presently existing and used public highway extending through and across said county known as Front Street, or U.S. Highway No. 90, and the road protection or seawall right-of-way. The commission shall have authority to acquire by purchase, gift or other means, the title to any part of said land or to acquire easements or leases to same, or to acquire the right to use any part of such land by any other form of agreement that may be agreed upon between the commission and the landowner, either in perpetuity or for a term of years. The board of supervisors may, in its discretion, appropriate funds to acquire such rights or titles.

Nothing in this chapter shall be construed to relieve the State Highway Department of any maintenance along such public parkway which it has the statutory duty to perform.

SOURCES: Codes, 1942, § 6007; Laws, 1938, ch. 287; Laws, 1975, ch. 337, § 1, eff from and after passage (approved March 10, 1975).

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

Cross References — Authority to approve and adopt plans for landscaping and beautification, see § 55-11-9.

Authority to purchase materials and contract for labor and materials, see § 55-11-11.

Authority to adapt regulations and ordinances, see § 55-11-15.

Acquisition, appropriation and expenditure of funds, see § 55-11-17.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds §§ 4 et seq.

§ 55-11-9. Approval and adoption of plans for landscaping and beautification.

The commission shall have authority, subject to the approval of the board of supervisors, to employ a competent landscape engineer to prepare plans for the beautification and landscaping of the area described in Section 55-11-7, and for any part thereof, and to approve and adopt plans for the beautification and landscaping of such areas that the commission may deem proper. However, as to any such beautification or landscaping, the cost of which is to be paid by said county, such adoption or approval shall be subject to the approval of the board of supervisors. The board of supervisors shall have authority to pay the expenses of preparing such plans out of their general fund or any other funds made available for the purposes of this chapter.

SOURCES: Codes, 1942, § 6008; Laws, 1938, ch. 287.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 12.

§ 55-11-11. Purchases and contracts.

The commission shall have authority to advertise for bids for the purchase of any materials or things and for letting contracts for furnishing any labor and material for carrying out plans that may be approved for the beautification and landscaping of any part of said parkway. No purchase or contract which is to be paid out of county funds, shall be final or any such contract binding upon the county, until accepted by the board of supervisors by order spread upon their minutes. Any such purchase or contracts that are to be paid for out of funds provided by any other governmental department shall be made and accepted in such manner that may be approved by the governmental department providing such funds.

SOURCES: Codes, 1942, § 6009; Laws, 1938, ch. 287.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 12.

§ 55-11-13. Title to and use of property rights.

The title to any property and all leases, easements or other property rights acquired under the provisions of this chapter shall be taken in the name of or for the use and benefit of Harrison County for public purposes. All such rights in land acquired by such conveyances, leases, easements, or other instruments, shall be used for public purposes in accordance with the provisions of this chapter and never applied to private uses, and the commission shall never permit any nuisance to be maintained or exist thereon.

SOURCES: Codes, 1942, § 6012; Laws, 1938, ch. 287.

§ 55-11-15. Adoption of regulations and ordinances.

The commission and the county and municipalities cooperating under this chapter shall have authority to adopt such regulations and ordinances they deem proper and necessary to carry out its provisions and to regulate the use of such parkway.

SOURCES: Codes, 1942, § 6013; Laws, 1938, ch. 287.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 12.

§ 55-11-17. Acquisition, appropriation and expenditure of funds.

The board of supervisors of Harrison County and the municipalities of Biloxi, Gulfport, Long Beach and Pass Christian, through their governing authorities, are hereby authorized to cooperate in carrying out the provisions of this chapter and to appropriate and expend funds for that purpose out of any general fund or general improvement funds.

They may do all things and make such expenditures they may deem necessary to carry out the provisions of this chapter, and may permit the use of their machinery and workmen for that purpose.

The commission and Board of Supervisors of Harrison County are authorized to apply for and accept funds from the United States Government and any of its departments or agencies, and to expend the same in carrying out the provisions of this chapter.

SOURCES: Codes, 1942, § 6010; Laws, 1938, ch. 287; Laws, 1975, ch. 337, § 2; Laws, 1986, ch. 400, § 45, eff from and after October 1, 1986.

§ 55-11-19. Applicability of laws relating to municipal budgets.

In making expenditures and donations authorized by this chapter, it shall not be necessary for the board of supervisors or the governing authorities of any municipality to comply with the provisions of Sections 19-11-1 through 19-11-27, or 21-35-1 through 21-35-33, Mississippi Code of 1972, requiring counties and municipalities to prepare budgets.

SOURCES: Codes, 1942, § 6011; Laws, 1938, ch. 287.

§ 55-11-21. Title to improvements.

Any improvements placed on any leased land or other land in which the public ownership is less than a fee title shall remain public property and upon expiration of the public right may be removed.

SOURCES: Codes, 1942, § 6014; Laws, 1938, ch. 287.

CHAPTER 13

Natchez Trace Parkway

In General 55-13-1
Advertising Adjacent to the Natchez Trace Parkway 55-13-33

IN GENERAL

Sec.	
55-13-1.	Creation and composition of Natchez Trace Parkway Commission; general powers and duties of commission; duration and compensation of commission.
55-13-3.	Acquisition of rights-of-way and scenic easements generally.
55-13-5.	Dimensions of rights-of-way and scenic easements.
55-13-7.	Condemnation of property for rights-of-way and easements.
55-13-9.	Payment of costs of land acquisition by counties.
55-13-11.	Construction of Sections 55-13-3 through 55-13-11.
55-13-13.	Authorization for purchase of additional rights-of-way for federal government.
55-13-15.	Declaration of necessity for additional powers, rights and duties.
55-13-17.	Incorporation of Natchez Trace into state highway system; powers of Highway Commission as to highway and parkway.
55-13-19.	Authorization of expenditures for purposes of Section 55-13-17.
55-13-20.	Authorization for Mississippi Transportation Commission to acquire rights-of-way and scenic easements.
55-13-21.	Assistance of Highway Commission by attorney general, district attorney, or county attorney.
55-13-23.	Payment for standing merchantable timber on acquired land.
55-13-25.	Relocation of local roads crossing highway.
55-13-27.	Condemnation of property.
55-13-29.	Construction of Sections 55-13-15 through 55-13-29.
55-13-31.	Sale and conveyance of reserved oil, gas and other minerals in acquired properties to former owners.

§ 55-13-1. Creation and composition of Natchez Trace Parkway Commission; general powers and duties of commission; duration and compensation of commission.

There is hereby created a Natchez Trace Parkway Right-of-Way Commission, which shall consist of three (3) members to be appointed by the Governor. Only qualified electors who are citizens of the State of Mississippi shall be eligible to serve on said commission.

The said commission shall have the power and the authority to deal with the boards of supervisors of the several counties through which said parkway runs, with the governing authorities of the municipalities through which said parkway runs, and with the State Highway Commission, and other state authorities, in procuring rights-of-way for the said parkway, satisfactory to the United States government and the agencies thereof in charge of the location and construction of the Natchez Trace Parkway.

The said commission shall serve without pay and shall exist and function so long as is necessary to effectuate its purposes. When its purposes and duties have been accomplished, said commission shall be dissolved by order of the governor.

SOURCES: Codes, 1942, § 5990; Laws, 1936, ch. 195.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Additional powers, rights and duties, see §§ 55-13-15 through 55-13-29.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 12.

§ 55-13-3. Acquisition of rights-of-way and scenic easements generally.

Whereas the United States government is about to undertake the construction of the Natchez Trace, which will be a highway in the State of Mississippi, and have in conjunction therewith a parkway, which highway will extend through the State of Mississippi for approximately three hundred miles and will entail an expenditure on the part of the federal government of not less than twelve million dollars ($12,000,000.00) provided that the United States government is supplied by the state or counties through which said Natchez Trace highway and parkway extends free rights-of-way, together with certain scenic easements along said right-of-way and parkway, the State Highway Commission of the State of Mississippi is hereby authorized and empowered to make use out of any available funds which it may have on hand or obtain such moneys as may be necessary for the purchase of lands and lease scenic easements for the Natchez Trace Parkway in the State of Mississippi or any other United States parkway project in the State of Mississippi which may be undertaken by the United States government. Said lands, when obtained by the state highway department either through purchase, gift or otherwise, may be given free to the United States or some of its subsidiary subdivisions on such terms and conditions as the United States government may demand and the State of Mississippi accede to.

SOURCES: Codes, 1942, § 5985; Laws, 1935, ch. 45.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation, and whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Conveyances by county boards of supervisors of rights of way and easements for construction of roadways and parkways, see § 55-5-5.

Authority of Mississippi Transportation Commission to convey rights-of-way and roads to federal government for national highway or parkway, see § 55-5-7.

Conveyance by Governor of certain lands, including sixteenth lands, to federal government, see § 55-5-9.

Payment of costs of land acquisition by counties, see § 55-13-9.

§ 55-13-5. Dimensions of rights-of-way and scenic easements.

Such right-of-way and parkway shall be of such size and dimension as may be required by the United States government or its subsidiaries in charge of any such parkway road, not exceeding, however, one hundred (100) acres on the average to the mile of such roadway in the State of Mississippi, and such scenic easements in addition thereto as may be required, not exceeding, however, the amount of fifty (50) acres on the average to the mile of such roadway in the State of Mississippi.

SOURCES: Codes, 1942, § 5986; Laws, 1935, ch. 45.

Cross References — Limitation of size of national roadway or parkway, see § 55-5-15.

§ 55-13-7. Condemnation of property for rights-of-way and easements.

The Mississippi State Highway Department, in the acquisition of the lands hereinabove described, shall have full power and authority to condemn such lands for said right-of-way, parkway and scenic easement purposes as is otherwise provided under the laws of the State of Mississippi, condemning such lands to an amount of not more than one hundred (100) acres on the average to the mile of such roadway in the State of Mississippi, and such scenic easements in addition thereto as may be required, not exceeding, however, the amount of fifty (50) acres on the average to the mile of such roadway in the State of Mississippi. This right is in addition to any rights which the highway department may have at the present time as to the width of roadways which may be condemned for roadway purposes in the State of Mississippi, it being the intention of this section to confer the right to extend the width of such roadways for roadway and parkway purposes to an amount limited, as herein above set forth, to one hundred (100) acres on the average to the mile of such roadway in the State of Mississippi, and such scenic easements in addition thereto as may be required, not exceeding, however, the amount of fifty (50) acres on the average to the mile of such roadway in the State of Mississippi.

SOURCES: Codes, 1942, § 5987; Laws, 1935, ch. 45.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

Cross References — How right of eminent domain is to be exercised, see § 11-27-1.

Exercise of eminent domain in development of national roadway or parkway, see § 55-5-5.

Dimensions of rights-of-way and scenic easements, see § 55-13-5.

Payment of costs of land acquisition by counties, see § 55-13-9.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 67, 73.

CJS. 29A C.J.S., Eminent Domain §§ 33, 58.

§ 55-13-9. Payment of costs of land acquisition by counties.

The state highway commission, for the purpose of acquiring lands as set forth in Sections 55-13-3 through 55-13-11, may pay one-half the cost of said lands so acquired by purchase or condemnation only in event the county in which the land is purchased or condemned first contributes its one-half of such costs.

SOURCES: Codes, 1942, § 5988; Laws, 1935, ch. 45.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 55-13-11. Construction of Sections 55-13-3 through 55-13-11.

Sections 55-13-3 through 55-13-11 shall be construed in connection with any other laws of the State of Mississippi which promote the building of a national highway and parkway in the State of Mississippi.

SOURCES: Codes, 1942, § 5989; Laws, 1935, ch. 45.

§ 55-13-13. Authorization for purchase of additional rights-of-way for federal government.

Whenever the Governor of the State of Mississippi and the Highway Commission shall deem it to the best interest of the State of Mississippi to proceed to purchase additional right-of-way for the Natchez Trace Parkway so that such rights of way may be available for any contemplated or proposed appropriation to be made by the United States government looking toward the completion of such Natchez Trace Parkway, then the Mississippi Highway Commission is authorized, directed and empowered to proceed to purchase such additional rights-of-way as the said Mississippi Highway Commission and the governor of the State of Mississippi may deem necessary. That the cost of such right-of-way for Natchez Trace Parkway, including the making of surveys and the preparation of plans and specifications and eminent domain proceedings and other necessary expenses shall be paid out of the proceeds of the funds made available for road construction under Laws, 1946, ch. 186, or out of funds made available to the state highway department out of the gasoline tax or out of any other funds made available for use by the State Highway Department, whether the same be for construction or maintenance or for any other purpose.

SOURCES: Codes, 1942, § 5989-01; Laws, 1946, ch. 254, § 1.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

Cross References — Payment of costs of land acquisition by counties, see § 55-13-9.

§ 55-13-15. Declaration of necessity for additional powers, rights and duties.

Whereas, the federal government has allocated to the State of Mississippi for the construction of the Natchez Trace Parkway several millions of dollars; and

Whereas, said Natchez Trace Parkway is to be a paved highway of scenic beauty and of great value to the State of Mississippi; and

Whereas, by Sections 55-5-1 through 55-5-17, and Sections 55-13-3 through 55-13-11, the state highway commission and the counties through which the Natchez Trace is to run were authorized to acquire by purchase or condemnation the right-of-way necessary for the Natchez Trace highway, parkway and scenic public parks, and to pay for such right-of-way in the proportion of one-half by the several counties and one-half by the State Highway Commission; and

Whereas, the State Highway Commission by order on its minutes has declared that it will expend not in excess of two hundred thousand dollars ($200,000.00) for the purchase of its part of such right-of-way; and

Whereas, it is necessary under the rules and regulations of the federal government that this right-of-way be obtained and paid for by the State of Mississippi and conveyed by warranty deed to the United States of America prior to the expenditure of any federal funds for the construction of said trace;

Now, therefore, in order to carry out the regulations and rules of the federal government, and in order that the benefit of the federal government's financial assistance may be realized for this work, the following additional powers, rights and duties are hereby conferred upon the State Highway Commission and the several counties through which said trace is to run, and Sections 55-13-17 through 55-13-29 are hereby enacted.

SOURCES: Codes, 1942, § 5991; Laws, 1936, ch. 201.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 55-13-17. Incorporation of Natchez Trace into state highway system; powers of Highway Commission as to highway and parkway.

The Natchez Trace highway, parkway and scenic public parks to be constructed within the State of Mississippi is hereby made a part of the state highway system, and full jurisdiction over the same is hereby conferred upon the State Highway Commission for the purpose of assisting the agents and employees of the federal government in the making of surveys, the preparing of maps, both topographical and descriptive, the preparing of deeds, the purchasing of right of way, the filing of condemnation suits and the obtaining of right-of-way for said Natchez Trace.

The State Highway Commission is further authorized and empowered to make surveys, prepare maps, deeds and plats and to receive on behalf of and in the name of the State of Mississippi the fee simple title to any land necessary for the construction of the said Natchez Trace highway and parkway and to receive scenic easements through, over, on and across land necessary for scenic public parks along said Natchez Trace.

The State Highway Commission is hereby authorized and empowered to obtain by purchase, condemnation or otherwise, any land which is necessary for the Natchez Trace highway, parkway and scenic public parks, and to pay for the same as provided in Section 55-13-19.

SOURCES: Codes, 1942, § 5992; Laws, 1936, ch. 201; Laws, 1936, lst Ex. ch. 7.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — Authority of Mississippi Transportation Commission to make surveys and the like in connection with proposed national parkway, see § 55-5-23.

Authorization of expenditures for purpose of this section, see § 55-13-19.

RESEARCH REFERENCES

Am Jur. 26 Am. Jur. 2d, Eminent Domain §§ 67, 73.

CJS. 29A C.J.S., Eminent Domain §§ 33, 58.

§ 55-13-19. Authorization of expenditures for purposes of Section 55-13-17.

In order to carry out the purposes and provisions of Section 55-13-17, the State Highway Commission is hereby authorized and empowered, in its discretion, to expend a sum of money not to exceed two hundred thousand dollars ($200,000.00) to be used in the making of preliminary surveys, final surveys, the preparing of maps, plats and deeds, the purchasing of right-of-way, the payment of condemnation awards, and the doing of all things incidental and necessary to the obtaining of right-of-way for the said Natchez Trace, including the employing of necessary personnel to carry out the provisions of said section. However, nothing in this section shall obligate the State Highway Commission to expend more than two hundred thousand dollars ($200,000.00) for the purposes herein provided.

SOURCES: Codes, 1942, § 5993; Laws, 1936, lst Ex. ch. 7; Laws, 1938, ch. 204.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

§ 55-13-20. Authorization for Mississippi Transportation Commission to acquire rights-of-way and scenic easements.

The Mississippi Transportation Commission is authorized to acquire by purchase or eminent domain the right-of-way and scenic easements it considers appropriate to complete the terminus of the Natchez Trace Parkway in Natchez, Mississippi, and to transfer such right-of-way to the United States of America for the construction of the Natchez Trace Parkway.

SOURCES: Laws, 2000, ch. 545, § 2, eff from and after passage (approved May 20, 2000.)

Cross References — How right of eminent domain is to be exercised, see § 11-27-1.

§ 55-13-21. Assistance of Highway Commission by attorney general, district attorney, or county attorney.

The Highway Commission is hereby authorized to call upon the attorney general, or any district attorney in his district, or any county attorney in his county, to assist in the preparation and trial of any condemnation suit for right-of-way for the Natchez Trace, and it is further authorized to pay the actual and necessary traveling expenses of any such officer assisting in any such suit.

SOURCES: Codes, 1942, § 5998; Laws, 1936, ch. 201.

§ 55-13-23. Payment for standing merchantable timber on acquired land.

Whenever it is found necessary to obtain by purchase or condemnation any right-of-way for the Natchez Trace highway, parkway or scenic public park, and there is upon such land a growth of standing, merchantable timber, the highway commission and the counties acquiring such land are hereby authorized, in their discretion, to pay a premium of not more than twenty percent (20%) in addition to the cash market value of such standing, merchantable timber for all of said timber which is left standing on the said right-of-way on the date of its acquisition.

SOURCES: Codes, 1942, § 5999; Laws, 1936, ch. 201.

§ 55-13-25. Relocation of local roads crossing highway.

Whenever any local road is found to cross the Natchez Trace Highway at a point which is not a parkway entrance, as defined by the national park service of the U. S. Department of the Interior, the board of supervisors of the county in which such road lies is hereby authorized to abandon that part of such road which crosses the Natchez Trace highway and parkway, and to relocate it so that said local road will connect with said Natchez Trace Highway at a fixed parkway entrance.

SOURCES: Codes, 1942, § 6000; Laws, 1936, ch. 201.

§ 55-13-27. Condemnation of property.

In order to carry out the purposes of Sections 55-13-15 through 55-13-29, all of the provisions, rights and powers granted the Highway Commission, and the several counties by any general condemnation law of the State of Mississippi, are hereby conferred upon the Highway Commission and the several counties through which said trace is to run, and the following additional powers are also hereby granted:

(a) The right to go on private property for the purpose of making preliminary surveys and measurements for the ascertaining of the exact location and description of the land to be acquired for the Natchez Trace, is hereby granted to agents and employees of the several counties, the State Highway Commission and the federal government.

(b) Immediately upon the payment of any award to the property owner or to the chancery clerk, as the case may be, the fee simple title to any such land acquired by condemnation shall pass to the condemnor.

(c) The State Highway Commission and the several counties through which the trace is to run are hereby authorized to condemn right-of-way for said trace on behalf of and in the name of the State of Mississippi, and as soon as the fee simple title, as above provided, vests in the State of Mississippi, the governor is hereby authorized to execute a conveyance by warranty deed to the United States government of any such land so acquired.

SOURCES: Codes, 1942, § 6001; Laws, 1936, ch. 201.

Editor's Note — Section 65-1-1 provides that whenever the term "State Highway Commission," or the term "commission" meaning the State Highway Commission, appears in the laws of this state, it shall mean the Mississippi Transportation Commission.

Cross References — How right of eminent domain is to be exercised, see § 11-27-1.

JUDICIAL DECISIONS

1. In general.

The Pearl River Water Supply District may condemn land for the relocation of the Natchez Trace Parkway and for use for the accommodation of visitors. Brown v. Pearl River Valley Water Supply Dist., 249 Miss. 697, 163 So. 2d 732 (1964).

§ 55-13-29. Construction of Sections 55-13-15 through 55-13-29.

The provisions of Sections 55-13-15 through 55-13-29 are to be construed together with all other laws of Mississippi with reference to the Natchez Trace and the condemning of land, and said provisions are to be liberally construed to effectuate the purposes of said sections and to obtain the benefits of the funds granted the State of Mississippi by the United States government.

SOURCES: Codes, 1942, § 6002; Laws, 1936, ch. 201.

§ 55-13-31. Sale and conveyance of reserved oil, gas and other minerals in acquired properties to former owners.

The land commissioner, with the approval of the Governor, is hereby authorized to sell and convey all of the oil, gas and other minerals heretofore reserved by the State of Mississippi in its respective conveyances to the United States of America of those certain properties acquired by the State of Mississippi for the Natchez Trace Parkway, said conveyances to be made to the former owners, their heirs, successors, assigns, or grantees, as their interests may appear, for such price as the land commissioner, with the approval of the governor, may fix. However, the minimum price for such conveyances shall be $1.00 per acre.

SOURCES: Codes, 1942, § 6003.5; Laws, 1958, ch. 603.

Editor's Note — Section 7-11-4 provides that the words "state land commissioner," "land commissioner," "state land office" and "land office" shall mean the secretary of state.

ADVERTISING ADJACENT TO THE NATCHEZ TRACE PARKWAY

SEC.	
55-13-33.	Restrictions on proximity of advertising to Natchez Trace Parkway.
55-13-35.	Restrictions on height of buildings adjacent to Natchez Trace Parkway; exemptions.
55-13-37.	Promulgation of rules and regulations.
55-13-39.	Maintenance of preexisting nonconforming advertising or structures; acquisition, purchase or condemnation of preexisting advertisement or structure.
55-13-41.	Removal, etc., of nonconforming advertising.
55-13-43.	Penalties for violation of Sections 55-13-33 through 55-13-45 and rules and regulations; injunctions.
55-13-45.	Study on use of uniform informational signs.

§ 55-13-33. Restrictions on proximity of advertising to Natchez Trace Parkway.

No advertisement or advertising structure shall be erected, constructed, installed, maintained or operated within one thousand (1,000) feet of the outside boundary of the Natchez Trace Parkway outside the limits of any municipality except as follows:

(a) Signs, displays or devices which advertise sale, lease, rental or development of the property on which it is located;

(b) Signs, displays or devices which carry only advertisements strictly related to the lawful use of the property on which it is located including signs, displays and devices which identify the business transacted, services rendered, goods sold or produced on the property, name of the business or name of the person, firm or corporation occupying or owning the property. The size of signs advertising the major activity of a business is not regulated under Sections 55-13-33 through 55-13-45. Signs which advertise brand name products or service sold or offered for sale on the property shall not be displayed unless such signs are on or attached to the building in which such products are sold. All signs permitted under this subsection shall be located not more than one hundred fifty (150) feet from the building in which such business activity is carried on;

(c) Historic markers erected by duly constituted and authorized public authorities;

(d) Highway markers and signs erected or caused to be erected by the Mississippi State Highway Department or other authorized authorities in accordance with the law;

(e) Directional and official signs or notices erected and maintained by public officers or agencies pursuant to and in accordance with lawful authorization for the purpose of carrying out an official duty or responsibility;

(f) Except as otherwise provided by law, signs located within a one thousand (1,000) foot radius of intersections created by the crossing of the boundary of the Natchez Trace Parkway with the right-of-way lines of components of the National System of Interstate and Defense Highways, the Federal Aid Primary Highway System or the Mississippi System of Primary Highways.

SOURCES: Laws, 1988, ch. 587, § 1, eff from and after July 1, 1988.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

Cross References — Maintenance, acquisition, purchase or condemnation of preexisting non-conforming advertisement or advertising structure, see § 55-13-39.

RESEARCH REFERENCES

ALR. Municipal power as to billboards and outdoor advertising. 58 A.L.R.2d 1314.

Aesthetic objectives or considerations as affecting validity of zoning ordinance. 21 A.L.R.3d 1222.

Classification and maintenance of advertising structures as nonconforming use. 80 A.L.R.3d 630.

Validity and construction of state or local regulation prohibiting the erection or maintenance of advertising structures within a specified distance of street or highway. 81 A.L.R.3d 564.

Am Jur. 83 Am. Jur. 2d, Zoning and planning § 34.

CJS. 101A C.J.S., Zoning and Land Planning §§ 62, 63.

§ 55-13-35. Restrictions on height of buildings adjacent to Natchez Trace Parkway; exemptions.

(1) It shall be unlawful to construct or erect a building, advertising structure or other structure, of more than three (3) stories or thirty-five (35) feet in height, whichever is lesser, within one thousand (1,000) feet of the outside boundary of the Natchez Trace Parkway. Such restrictions on buildings and structures shall apply notwithstanding that such area is located inside or outside a municipality and notwithstanding any other provisions of law to the contrary.

(2) It is the legislative intent of this section, in part, that possession of a building permit on July 1, 1988, shall not allow any construction after July 1, 1988, based on that permit. This section shall not apply to any building in existence on July 1, 1988.

(3) The following buildings or structures are exempt from the application of this section if they were constructed or under construction prior to July 1, 2002:

(a) Silos, buildings and structures designed for agricultural use;

(b) Churches; and

(c) Any building or structure on property that is owned by a public school district and used for educational purposes.

SOURCES: Laws, 1988, ch. 587, § 2; Laws, 1996, ch. 356, § 1; Laws, 2000, ch. 545, § 1; Laws, 2002, ch. 531, § 1, eff from and after July 1, 2002.

Cross References — Penalties for violations of §§ 55-13-33 through 55-13-45, see § 55-13-43.

ATTORNEY GENERAL OPINIONS

Where a proposed telecommunications tower had neither walls nor roof, such tower did not constitute a "building" within the meaning of this section. Robinson, March 12, 1999, A.G. Op. #99-0107.

RESEARCH REFERENCES

ALR. Validity of building height regulations. 8 A.L.R.2d 963.

Aesthetic objectives or considerations as affecting validity of zoning ordinance. 21 A.L.R.3d 1222.

Retroactive effect of zoning regulation, in absence of savings clause, on validly issued building permit. 49 A.L.R.3d 13.

Am Jur. 83 Am. Jur. 2d, Zoning and planning §§ 34, 70, 181-184.

CJS. 101A C.J.S., Zoning and Land Planning § 51.

§ 55-13-37. Promulgation of rules and regulations.

The Mississippi Highway Commission shall have authority to make and promulgate rules and regulations necessary for carrying out the provisions of Sections 55-13-33 through 55-13-45.

SOURCES: Laws, 1988, ch. 587, § 3, eff from and after July 1, 1988.

§ 55-13-39. Maintenance of preexisting nonconforming advertising or structures; acquisition, purchase or condemnation of preexisting advertisement or structure.

(1) Any advertisement or advertising structure in existence on July 1, 1988, and which does not conform to the requirements of Sections 55-13-33 through 55-13-45 may be maintained for the life of such advertisement or advertising structure, provided that the State Highway Department may acquire by purchase, gift or condemnation all such advertisements and advertising structures and all property rights pertaining thereto. All condemnation proceedings shall be in accordance with such procedure as generally established by law.

(2) In any acquisition, purchase or condemnation by the State Highway Department under subsection (1) of this section, just compensation to the owner of the advertisement or advertising or advertising structure, where the owner of the outdoor advertising does not own the fee, shall be limited to the fair market value at the time of the taking of the advertising owner's interest in the real property on which the outdoor advertising is located and such value shall include the value of the advertising.

(3) In any acquisition, purchase or condemnation by the State Highway Department under subsection (1) of this section, just compensation to the owner of the fee or other interest in the real property upon which the advertising is located, where the owner does not own the advertising located thereon, shall be limited to the difference in the fair market value of the entire tract immediately before and immediately after the taking by the department of the right to erect and maintain such advertising thereon. In arriving at the fair market value after the taking, any special or general benefits accruing to the property by reason of the acquisition shall be taken into consideration.

(4) In any acquisition, purchase or condemnation by the State Highway Department under subsection (1) of this section, just compensation to the

owner of the fee in the real property upon which the advertising is located, where the owner also owns the advertising located thereon, shall be limited to the fair market value of the advertising plus the difference in the fair market value of the entire tract immediately before and immediately after the taking by the State Highway Department of the right to erect and maintain such advertising thereon. In arriving at the fair market value after the taking, any special or general benefits accruing to the property by reason of the acquisition shall be taken into consideration.

SOURCES: Laws, 1988, ch. 587, § 4, eff from and after July 1, 1988.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

Cross References — Condemnation procedures generally, see § 11-27-1 et seq.
Restrictions on proximity of advertising to parkway, see § 55-13-33.
Removal of nonconforming advertising, see § 55-13-41.
Penalties for violation of §§ 55-13-33 through 55-13-45, see § 55-13-43.

RESEARCH REFERENCES

ALR. Municipal power as to billboards and outdoor advertising. 58 A.L.R.2d 1314.

Validity of provisions for amortization of nonconforming uses. 22 A.L.R.3d 1134.

Eminent domain: determination of just compensation for condemnation of billboards or other advertising signs. 73 A.L.R.3d 1122.

§ 55-13-41. Removal, etc., of nonconforming advertising.

Any advertising erected or established after July 1, 1988, in violation of the provisions of Sections 55-13-33 through 55-13-45, shall be unlawful and shall constitute a nuisance. The State Highway Department shall give thirty (30) days' notice by certified mail to the owner of the nonconforming advertising, if such owner is known or can by reasonable diligence be ascertained, to remove the advertising or to make it conform to the provisions of Sections 55-13-33 through 55-13-45 and any rules and regulations promulgated by the State Highway Department pursuant thereto. The State Highway Department shall have the right to remove or contract to have removed the nonconforming advertising at the expense of the owner if the owner fails to act within thirty (30) days after receipt of such notice. The State Highway Department or its agents or any person contracting with the department may enter upon private property for the purpose of removing advertising prohibited by Sections 55-13-33 through 55-13-45 or any rules and regulations promulgated by the State Highway Department without civil or criminal liability.

SOURCES: Laws, 1988, ch. 587, § 5, eff from and after July 1, 1988.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State

Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

Cross References — Restrictions on proximity of advertising to parkway, see § 55-13-33.

Maintenance of pre-existing non-conforming advertising, see § 55-13-39.

Penalties for violation of §§ 55-13-33 through 55-13-45, see § 55-13-43.

RESEARCH REFERENCES

ALR. Municipal power as to billboards and outdoor advertising. 58 A.L.R.2d 1314.

Billboards and other outdoor advertising signs as civil nuisance. 38 A.L.R.3d 647.

Validity and construction of state or local regulation prohibiting the erection or maintenance of advertising structures within a specified distance of street or highway. 81 A.L.R.3d 564.

Am Jur. 83 Am. Jur. 2d, Zoning and planning §§ 188, 193.

CJS. 101A C.J.S., Zoning and Land Planning §§ 391, 392, 394 et seq.

§ 55-13-43. Penalties for violation of Sections 55-13-33 through 55-13-45 and rules and regulations; injunctions.

Any person, firm, corporation or association placing or erecting any advertisements or advertising structures or any junkyard along the Natchez Trace Parkway in violation of Sections 55-13-33 through 55-13-45 or any rule or regulations promulgated pursuant thereto shall be guilty of a misdemeanor. In addition thereto, the State Highway Department may seek injunctive relief in the chancery court of the county in which the nonconforming advertising is located and require the advertising to conform to the provisions of Sections 55-13-33 through 55-13-45 and rules and regulations promulgated pursuant hereto, or require the removal of the nonconforming outdoor advertising.

SOURCES: Laws, 1988, ch. 587, § 6, eff from and after July 1, 1988.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

Cross References — Restrictions on proximity of advertising to parkway, see § 55-13-33.

Maintenance of pre-existing non-conforming advertising, see § 55-13-39.

Removal of nonconforming advertising, see § 55-13-41.

RESEARCH REFERENCES

Am Jur. 83 Am. Jur. 2d, Zoning and planning §§ 188, 193.

CJS. 101A C.J.S., Zoning and Land Planning §§ 391, 392, 394 et seq.

§ 55-13-45. Study on use of uniform informational signs.

The Mississippi State Highway Department is hereby directed to conduct investigations, including but not limited to necessary consultations with the National Park Service, to study the feasibility of the use of uniform informational signs along the parkways or parks which relate to commercial establishments accessible from the parkways or parks, and to report back to the 1989 Session of the Mississippi Legislature.

SOURCES: Laws, 1988, ch. 587, § 7, eff from and after July 1, 1988.

Editor's Note — Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

Cross References — Penalties for violation of §§ 55-13-33 through 55-13-45, see § 55-13-43.

CHAPTER 15

Commemorative Parks and Monuments

Brice's Cross Roads-Tupelo Battlefield Commission 55-15-1
Grand Gulf Military Monument Commission 55-15-21
Confederate Monumental Park 55-15-41
Mississippi Veterans Monument Commission 55-15-51
Vietnam Veterans Memorial 55-15-71
Alteration of historical monuments and memorials 55-15-81

BRICE'S CROSS ROADS-TUPELO BATTLEFIELD COMMISSION

Sec.
55-15-1. Transfer of duties and responsibilities of Brice's Crossroads-Tupelo Battlefield Commission; construction of references in laws.
55-15-3. Repealed.
55-15-5. Powers and duties of commission.
55-15-7. Repealed.

§ 55-15-1. Transfer of duties and responsibilities of Brice's Crossroads-Tupelo Battlefield Commission; construction of references in laws.

(1) The Mississippi Department of Wildlife, Fisheries and Parks shall be the Brice's Crossroads-Tupelo Battlefield Commission, and shall exercise the duties and responsibilities of the Brice's Crossroads-Tupelo Battlefield Commission.

(2) The words "Brice's Crossroads-Tupelo Battlefield Commission" wherever they may appear in the laws of the State of Mississippi shall be construed to mean the Mississippi Department of Wildlife, Fisheries and Parks.

SOURCES: Codes, 1942, § 6016; Laws, 1936, ch. 311; Laws, 1978, ch. 484, § 43; Laws, 2000, ch. 516, § 122, eff from and after passage (approved Apr. 30, 2000.)

Cross References — Mississippi Department of Wildlife, Fisheries and Parks generally, see §§ 55-3-31 et seq.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds §§ 1 et seq.

CJS. 81A C.J.S., States §§ 245-247, 249-253.

§ 55-15-3. Repealed.

Repealed by Laws, 1978, ch. 484, § 44, eff from and after July 1, 1979. [Codes, 1942, § 6017; Laws, 1936, ch. 311]

Editor's Note — Former § 55-15-3 related to the organization, officers, and meetings of the Brice's Crossroads-Tupelo Battlefield Commission.

§ 55-15-5. Powers and duties of commission.

Said commission is authorized, empowered and directed to make a careful study and examination of the battlefields of Brice's Crossroads and Tupelo (or Harrisburg), located in Lee County, Mississippi; to identify and establish the lines of Confederate soldiers, especially those from the State of Mississippi, their various maneuvers and positions, and whenever possible, to make authoritative publication of same; and to designate such historic, memorable spots with markers, monuments or other suitable means of identification.

Said commissioners will cooperate with similar commissioners that may be appointed by the legislatures of Tennessee, Alabama and Kentucky, these four states furnishing practically all the Confederate troops engaged in both battles. Said commission is authorized to receive any contributions in money or donations of land that might be made by patriotic citizens to carry out the objects and purposes of Sections 55-15-1 through 55-15-7; to make expenditures necessary to publish authoritative accounts of said battles; to erect suitable markers; to acquire options or titles to parts or all of said battlefields; and to hold same in the name and for the benefit of the State of Mississippi, all to the end that these sacred, blood-stained battlefields may be ultimately established and permanently maintained as memorial parks in everlasting honor to the heroism of the Confederate soldiers participating in said conflicts and as historic areas for the benefit of future generations.

SOURCES: Codes, 1942, § 6018; Laws, 1936, ch. 311.

Editor's Note — Section 55-15-7 referred to in this section was repealed by Laws, 1978, ch. 484, § 44, eff from and after July 1, 1979.

§ 55-15-7. Repealed.

Repealed by Laws, 1978, ch. 484, § 44, eff from and after July 1, 1979. [Codes, 1942, § 6019; Laws, 1936, ch. 311]

Editor's Note — Former § 55-15-7 related to reports, records, plans, and expenses of the Brice's Crossroads-Tupelo Battlefield Commission.

GRAND GULF MILITARY MONUMENT COMMISSION

Sec.	
55-15-21.	Creation of commission; composition; qualifications, appointment and terms of office of members.
55-15-23.	Organization; officers; meetings.
55-15-25.	Powers and duties of commission.
55-15-27.	Donations to commission.
55-15-29.	Operation of historical park.
55-15-31.	Reports; records; plans; compensation of members of commission.

§ 55-15-21. Creation of commission; composition; qualifications, appointment and terms of office of members.

There is hereby created and established the Grand Gulf Military Monument Commission, to be composed of five (5) members, all to be resident citizens of Claiborne County, Mississippi. The members shall be appointed by the governor and shall serve for a period of five (5) years.

SOURCES: Codes, 1942, § 6021-01; Laws, 1958, ch. 594, § 1; Laws, 1970, ch. 268, § 1, eff from and after passage (approved February 18, 1970).

Editor's Note — Laws of 1979, ch. 382, § 1, effective March 19, 1979, provides as follows:

"SECTION 1. Section 45 of Chapter 484, Laws of 1978, which amends Section 55-15-21, Mississippi Code of 1972, effective July 1, 1979 [authorizing the Mississippi Natural Resources Commission to assume the duties and responsibilities of the Grand Gulf Military Monument Commission], is hereby repealed, and Section 55-15-21, Mississippi Code of 1972, shall remain in full force and effect."

Cross References — Commission organization, officers, meetings, see § 55-15-23.

General powers and duties of commission, see § 55-15-25.

Reports, records, plans, compensation of members of commission, see § 55-15-31.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds §§ 1 et seq.

CJS. 81A C.J.S., States §§ 245-247, 249-253.

§ 55-15-23. Organization; officers; meetings.

Immediately after said members are named and commissioned, they shall meet at the county courthouse in Claiborne County, or at an otherwise appropriate place in Claiborne County, and proceed to organize said commission by the election of a chairman and a secretary-treasurer. Annually thereafter, said commissioners shall hold their regular meeting for the election of officers and for the transaction of other business. They shall meet at any other time upon the call of the chairman.

SOURCES: Codes, 1942, § 6021-02; Laws, 1958, ch. 594, § 2, eff from and after passage (approved April 29, 1958).

Editor's Note — Laws of 1979, ch. 383, § 2, effective March 19, 1979, provides as follows:

"SECTION 2. Section 46 of Chapter 484, Laws of 1978, which specifies that Sections 55-15-23 and 55-15-31, Mississippi Code of 1972, would be repealed July 1, 1979, is hereby repealed, and Sections 55-15-23 and 55-15-31, Mississippi Code of 1972, shall remain in full force and effect."

Cross References — General powers and duties of commission, see § 55-15-25.

Reports, records, plans, compensation of members of commission, see § 55-15-31.

§ 55-15-25. Powers and duties of commission.

Said commission is authorized, empowered and directed to make careful study and examination of the battlefields of the Grand Gulf Military Area, located in Claiborne County, Mississippi; to make all necessary surveys in preparation to the acquisition of the Grand Gulf Military Area; to identify and establish the battle lines, maneuvers and positions; and to designate such historic, memorable areas with markers, monuments or other suitable means of identification.

Said commission is hereby authorized to receive any contributions in money, property of any kind, or donations of land that might be made by patriotic citizens to carry out the objects and purposes of Sections 55-15-21 through 55-15-31; to acquire options or titles to parts or all of said Grand Gulf Military Area and to exercise the right of eminent domain in acquiring said lands in the manner now provided by law; and to hold same in the name and for the benefit of the State of Mississippi, all to the end that the Grand Gulf Military Area may be ultimately established and permanently maintained and operated as an historical park.

SOURCES: Codes, 1942, § 6021-03; Laws, 1958, ch. 594, § 3; Laws, 1959, Ex. Sess. ch. 20.

Cross References — Law of eminent domain, see §§ 11-27-1 et seq.

Commission authorized and directed to establish and operate Grand Gulf Military Area as historical park, see § 55-15-27.

§ 55-15-27. Donations to commission.

The board of supervisors of Claiborne County, Mississippi, and the mayor and board of aldermen of the town of Port Gibson, Mississippi, are hereby authorized to make donations to the Grand Gulf Military Monument Commission, to be used for the acquisition, establishment or maintenance of said Grand Gulf Military Area as an historical park.

SOURCES: Codes, 1942, § 6021-04; Laws, 1958, ch. 594, § 4, eff from and after passage (approved April 29, 1958).

§ 55-15-29. Operation of historical park.

The Grand Gulf Military Monument Commission is authorized and directed to establish, operate and maintain said area as an historical park as, if and when a part or all of said land has been acquired by the Grand Gulf Military Monument Commission for the State of Mississippi.

SOURCES: Codes, 1942, § 6021-05; Laws, 1958, ch. 594, § 5, eff from and after passage (approved April 29, 1958).

Cross References — General powers and duties of commission, see § 55-15-25.

§ 55-15-31. Reports; records; plans; compensation of members of commission.

Before each annual meeting, and at any other time when requested by the governor, said commission shall make a full, detailed and complete report of its actions, including an accounting of any receipts and expenditure of funds. Said commission shall at all times keep its records subject to public inspection. Said commission shall also outline a program for the ensuing year, and make recommendations for the accomplishments of its objects and purposes. None of the funds that may be donated or received by said commission shall be used or expended as compensation for any of said commissioners, but said funds may be used to pay the actual expenses of the commissioners while engaged in official business of the commission.

SOURCES: Codes, 1942, § 6021-06; Laws, 1958, ch. 594, § 6, eff from and after passage (approved April 29, 1958).

Editor's Note — Laws of 1979, ch. 382, § 2, effective March 19, 1979, provides as follows:

"SECTION 2. Section 46 of Chapter 484, Laws of 1978, which specifies that Sections 55-15-23 and 55-15-31, Mississippi Code of 1972, would be repealed July 1, 1979, is hereby repealed, and Sections 55-15-23 and 55-15-31, Mississippi Code of 1972, shall remain in full force and effect."

Cross References — Organization, officers and meetings of commission, see § 55-15-23.

Reports, records, plans, compensation of members of commission, see § 55-15-31.

CONFEDERATE MONUMENTAL PARK

SEC.	
55-15-41.	Metes and bounds.
55-15-43.	Transfer of duties and responsibilities of Confederate Monumental Park Commission; construction of references in laws.

§ 55-15-41. Metes and bounds.

The following described portion of the old capitol grounds is dedicated and appropriated for the purpose of establishing a confederate monumental park, and protecting and preserving the confederate monument now erected, and any that may be hereafter erected thereon. Beginning at the southwest corner of the present capitol grounds, at junction of Pearl and State Streets, thence running north along the east side of State Street two hundred and thirty-four feet; thence east at a right angle to said State Street, three hundred feet; thence south parallel with State Street, two hundred and thirty-four feet to Pearl Street; thence along north side of Pearl Street to point of beginning.

SOURCES: Codes, 1906, § 3297; Hemingway's 1917, § 5733; 1930, § 5563; 1942, § 6020; Laws, 1902, ch. 76.

Editor's Note — Laws of 2009, ch. 318, § 1, provides:

"SECTION 1. The Mississippi Department of Archives and History, with the assistance of the Bureau of Building, Grounds and Real Property Management of the Department of Finance and Administration, is hereby authorized and directed to restore and renovate the Confederate Monument located on the south lawn of the Old Capitol Building and to replace the original statue of Jefferson Davis in its original receptacle at the base of the monument, utilizing proper foundation and preservation materials. The department is authorized to use any funds made available for such purpose from public or private sources."

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds §§ 1 et seq.

CJS. 81A C.J.S., States §§ 245-247, 249-253.

§ 55-15-43. Transfer of duties and responsibilities of Confederate Monumental Park Commission; construction of references in laws.

(1) The Mississippi Department of Wildlife, Fisheries and Parks shall be the Confederate Monumental Park Commission, and shall exercise the duties and responsibilities of the Confederate Monumental Park Commission.

(2) The words "Confederate Monumental Park Commission," wherever they may appear in the laws of the State of Mississippi, shall be construed to mean the Mississippi Department of Wildlife, Fisheries and Parks.

SOURCES: Codes, 1906, § 3298; Hemingway's 1917, § 5734; 1930, § 5564; 1942, § 6021; Laws, 1978, ch. 484, § 47; Laws, 2000, ch. 516, § 123, eff from and after passage (approved Apr. 30, 2000.)

Cross References — Mississippi Department of Wildlife, Fisheries and Parks, see §§ 55-3-31 et seq.

MISSISSIPPI VETERANS MONUMENT COMMISSION

SEC.
55-15-51. Legislative findings and determinations [Repealed effective July 1, 2015].
55-15-53. Creation of commission; composition; meetings; compensation of members of commission [Repealed effective July 1, 2015].
55-15-55. Authority to construct and maintain monument [Repealed effective July 1, 2015].
55-15-57. General powers and duties of commission [Repealed effective July 1, 2015].
55-15-59. Veterans Monument Trust Fund [Repealed effective July 1, 2015].
55-15-61. Powers and duties of commission as to Mississippi Confederate memorial; Shiloh Confederate Memorial Trust Fund; state matching funds; municipal donations [Repealed effective July 1, 2015].
55-15-62. Congressional Medal of Honor Monument [Repealed effective July 1, 2015].
55-15-63. Repeal of Sections 55-15-51 through 55-15-62.

§ 55-15-51. Legislative findings and determinations [Repealed effective July 1, 2015].

It is hereby found and determined by the Legislature that many thousands of Mississippians have served in the Armed Forces of the United States; that the Mississippi veterans have not received the recognition and honor they deserve for service to their country; and that an appropriate monument should be established and maintained as a symbol of the recognition and appreciation of the State of Mississippi to Mississippi veterans.

SOURCES: Laws, 1986, ch. 342, § 1; reenacted without change, Laws, 1998, ch. 474, § 1; reenacted without change, Laws, 2000, ch. 455, § 1; reenacted without change, Laws, 2001, ch. 455, § 1; reenacted without change, Laws, 2002, ch. 480, § 1; reenacted without change, Laws, 2004, ch. 545, § 1; reenacted without change, Laws, 2006, ch. 378, § 1; reenacted without change, Laws, 2010, ch. 472, § 1, eff from and after July 1, 2010.

Editor's Note — For repeal date of this section, see § 55-15-63.

Laws of 1986, ch. 342, § 6, as amended by Laws of 1990, ch. 422, § 2, and Laws of 1990, ch. 456, § 3, provides as follows:

"SECTION 6. This act shall take effect and be in force from and after passage, and shall stand repealed by operation of law from and after completion of the Veterans monument and completion of the Mississippi Confederate Memorial at the Shiloh National Military Park."

This section was reenacted without change by Laws of 2010, ch. 472, effective from and after July 1, 2010.

Cross References — Authority to construct and maintain monument, see §§ 55-15-55.

§ 55-15-53. Creation of commission; composition; meetings; compensation of members of commission [Repealed effective July 1, 2015].

(1) From and after March 26, 1997, the present membership of the Mississippi Veterans Monument Commission shall cease serving on the commission. From and after March 26, 1997, the Mississippi Veterans Monument Commission shall consist of the following seven (7) members:

(a) The Chairman of the Mississippi War Veterans Memorial Commission, who shall serve as Secretary of the Mississippi Veterans Monument Commission;

(b) The Executive Secretary of the State Veterans Affairs Board;

(c) The Director of the Division of General Services in the Department of Finance and Administration;

(d) Three (3) members appointed by the Governor, one (1) from each of the three (3) state Supreme Court districts as follows:

(i) One (1) veteran of World War II;

(ii) One (1) veteran of the Korean Conflict; and

(iii) One (1) veteran of the Vietnam Conflict;

(e) One (1) veteran of the Persian Gulf Conflict, appointed from the state at large by the Lieutenant Governor.

(2) The initial meeting of the commission shall be called and chaired by the Chairman of the Mississippi War Veterans Memorial Commission, until the monument commission shall choose a chairman from among its members. Thereafter, the commission shall elect a chairman each year, and the commission may meet at the call of the chairman once each month. Minutes of the meetings of the commission shall be kept in a well-bound book and, along with all other records and papers, shall remain in the custody of the secretary of the commission. A majority of the commission shall constitute a quorum for the transaction of business. All actions taken or rules and regulations adopted by the commission shall be by resolution duly spread upon its minutes, showing yea and nay votes of each member present. The signature of the chairman and secretary, pursuant to a duly adopted resolution, shall be binding upon the commission.

(3) The appointed members of the Mississippi Veterans Monument Commission shall receive per diem compensation in the amount authorized under Section 25-3-69 for each day or portion thereof spent in the performance of the duties of the commission and shall be entitled to reimbursement for travel expenses while on commission business as authorized under Section 25-3-41. Other members of the commission shall not be entitled to compensation but shall be entitled to reimbursement for travel expenses as authorized under Section 25-3-41 while on commission business. Commission members shall be limited to reimbursement of travel expenses and per diem compensation authorized herein for no more than twelve (12) meetings per year.

(4) When the Mississippi Veterans Monument Commission ceases to exist, all records of the Mississippi Veterans Monument Commission shall become the property of the Mississippi War Veterans Memorial Commission.

(5) The Mississippi War Veterans Memorial Commission shall have continuing oversight responsibility over all activities pertaining to all Mississippi veterans monuments.

(6) The Mississippi Veterans Monument Commission shall continue in existence under the provisions of this chapter after the design, construction and dedication of the Mississippi veterans monument until July 1, 2006, so that such commission can provide for the design, construction and dedication of future monuments to be located at sites designated by the Mississippi Veterans Monument Commission.

SOURCES: Laws, 1986, ch. 342, § 2; Laws, 1990, ch. 456, § 1; Laws, 1991, ch. 392 § 1; Laws, 1997, ch. 466, § 1; reenacted and amended, Laws, 1998, ch. 474, § 2; reenacted without change, Laws, 2000, ch. 455, § 2; reenacted without change, Laws, 2001, ch. 455, § 2; reenacted and amended, Laws, 2002, ch. 480, § 2; reenacted and amended, Laws, 2004, ch. 545, § 2; reenacted without change, Laws, 2006, ch. 378, § 2; reenacted without change, Laws, 2010, ch. 472, § 2, eff from and after July 1, 2010.

Editor's Note — The date "July 1, 2006" in (6) should probably have been extended or deleted when the section was reenacted in 2006, but was not. The section appears as reenacted by § 2 of ch. 378, Laws of 2006, effective July 1, 2006.

For repeal date of this section, see § 55-15-63.

Laws of 1986, ch. 342, § 6, as amended by Laws of 1990, Chapter 422, § 2, and Laws of 1990, Chapter 456, § 3, provides as follows:

"SECTION 3. This act shall take effect and be in force from and after passage, and shall stand repealed by operation of law from and after completion of the Veterans monument and completion of the Mississippi Confederate Memorial at the Shiloh National Military Park.

This section was reenacted without change by Laws of 2010, ch. 472, effective from and after July 1, 2010.

Cross References — State Veterans Affairs Board, see §§ 35-1-1 et seq.

Mississippi War Veterans Memorial Commission, see §§ 35-3-24 through 35-3-27.

Authority to construct and maintain monument, see §§ 55-15-55.

Veterans Monument Trust Fund created, see § 55-15-59.

Duties of commission with respect to Mississippi Confederate Memorial, see § 55-15-61.

§ 55-15-55. Authority to construct and maintain monument [Repealed effective July 1, 2015].

The Mississippi Veterans Monument Commission is hereby authorized and directed to cause to be constructed and maintained an appropriate monument to honor Mississippi veterans when adequate funds for the construction thereof are deposited in the Veterans Monument Trust Fund herein created.

SOURCES: Laws, 1986, ch. 342, § 3; reenacted without change, Laws, 1998, ch. 474, § 3; reenacted without change, Laws, 2000, ch. 455, § 3; reenacted without change, Laws, 2001, ch. 455, § 3; reenacted without change, Laws, 2002, ch. 480, § 3; reenacted and amended, Laws, 2004, ch. 545, § 3; reenacted without change, Laws, 2006, ch. 378, § 3; reenacted without change, Laws, 2010, ch. 472, § 3, eff from and after July 1, 2010.

Editor's Note — For repeal date of this section, see § 55-15-63.

Laws of 1986, ch. 342, § 6, as amended by Laws of 1990, Chapter 422, § 2, and Laws of 1990, Chapter 456, § 3, provides as follows:

"This act shall take effect and be in force from and after passage, and shall stand repealed by operation of law from and after completion of the Veterans monument and completion of the Mississippi Confederate Memorial at the Shiloh National Military Park."

This section was reenacted without change by Laws, 2000, ch. 455, effective from and after July 1, 2000.

This section was reenacted without change by Laws, 2001, ch. 455, effective from and after July 1, 2001.

This section was reenacted without change by Laws, 2002, ch. 480, effective from and after July 1, 2002.

This section was reenacted without change by Laws of 2010, ch. 472, effective from and after July 1, 2010.

Cross References — Veterans Monument Trust Fund created, see § 55-15-59.

Duties of commission with respect to the Mississippi Confederate Memorial, see § 55-15-61.

Duties of with respect to Congressional Medal of Honor Monument, see § 55-15-62.

ATTORNEY GENERAL OPINIONS

The Mississippi Veterans Monument Commission may spend funds in the Veterans Monument Trust Fund for the design, construction, and dedication of a monument recognizing Mississippi recipients of the Congressional Medal of Honor as provided by Senate Bill 3024 of the 2000 Regular Session as an addition to the Veterans Monument. Robertson, May 12, 2000, A.G. Op. #2000-0255.

The Mississippi Veterans Monument Commission may pay the travel expenses for Congressional Medal of Honor recipients to attend the dedication of a monument recognizing Mississippi recipients of the Congressional Medal of Honor with funds in the Congressional Medal of Honor Monument Trust Fund, which is created pursuant to Senate Bill 3024. Robertson, May 12, 2000, A.G. Op. #2000-0255.

§ 55-15-57. General powers and duties of commission [Repealed effective July 1, 2015].

The Mississippi Veterans Monument Commission shall:

(a) Plan and provide for the design, construction and dedication of the Mississippi veterans monument. The actual design and site of the monument shall be selected with the approval of the Mississippi Department of Archives and History.

(b) Solicit private monetary donations for deposit into the Veterans Monument Trust Fund.

(c) Report to the Legislature by November 15 of each year on the progress of such monument. In addition to the report required in the preceding sentence, the commission shall submit an annual report on its activities no later than November of each year to the Military Affairs Committees of both the Mississippi House of Representatives and the Mississippi Senate.

SOURCES: Laws, 1986, ch. 342, § 4; Laws, 1990, ch 456, § 2; Laws, 1997, ch. 466, § 2; reenacted without change, Laws, 1998, ch. 474, § 4; reenacted without change, Laws, 2000, ch. 455, § 4; reenacted without change, Laws, 2001, ch. 455, § 4; reenacted without change, Laws, 2002, ch. 480, § 4; reenacted without change, Laws, 2004, ch. 545, § 4; reenacted without change, Laws, 2006, ch. 378, § 4; reenacted without change, Laws, 2010, ch. 472, § 4, eff from and after July 1, 2010.

Editor's Note — For repeal date of this section, see § 55-15-63.

Laws of 1986, ch. 342, § 6, as amended by Laws of 1990, Chapter 422, § 2, and Laws of 1990, Chapter 456, § 3, provides as follows:

"SECTION 3. This act shall take effect and be in force from and after passage, and shall stand repealed by operation of law from and after completion of the Veterans monument and completion of the Mississippi Confederate Memorial at the Shiloh National Military Park."

This section was reenacted without change by Laws, 2004, ch. 545, § 4, effective from and after July 1, 2004.

This section was reenacted without change by Laws, 2006, ch. 378, § 4, effective from and after July 1, 2006.

This section was reenacted without change by Laws of 2010, ch. 472, effective from and after July 1, 2010.

Cross References — Mississippi Department of Archives and History, see §§ 39-5-1 et seq.

Authority to construct and maintain monument, see § 55-15-55.

Veterans Monument Trust Fund, see § 55-15-59.

Duties of commission with respect to the Mississippi Confederate Memorial, see § 55-15-61.

Commission authorized to provide for design, construction and dedication of Congressional Medal of Honor monument, see § 55-15-62.

ATTORNEY GENERAL OPINIONS

The Mississippi Veterans Monument Commission may spend funds in the Veterans Monument Trust Fund for the design, construction, and dedication of a monument recognizing Mississippi recipients of the Congressional Medal of Honor as provided by Senate Bill 3024 of the 2000 Regular Session as an addition to the Veterans Monument. Robertson, May 12, 2000, A.G. Op. #2000-0255.

The Mississippi Veterans Monument Commission may pay the travel expenses for Congressional Medal of Honor recipients to attend the dedication of a monument recognizing Mississippi recipients of the Congressional Medal of Honor with funds in the Congressional Medal of Honor Monument Trust Fund, which is created pursuant to Senate Bill 3024. Robertson, May 12, 2000, A.G. Op. #2000-0255.

§ 55-15-59. Veterans Monument Trust Fund [Repealed effective July 1, 2015].

The Mississippi Veterans Monument Commission is hereby authorized to accept gifts, grants and donations from individuals and organizations, to be deposited in the Veterans Monument Trust Fund which is hereby created in the State Treasury. The State Treasurer shall invest all monies in the Veterans Monument Trust Fund and any interest earned shall be deposited into the fund. All appropriated funds and funds deposited in the Veterans Monument Trust Fund shall be used exclusively for the purpose of designing, erecting, maintaining and dedication of the veterans monument, except that not more than Seven Thousand Five Hundred Dollars ($7,500.00) may be expended annually to pay the administrative costs of the commission. Costs associated with the designing, erecting, maintaining and dedication of the veterans monument are not considered commission administrative costs for purposes of this section. Upon completion of the monument, money in the trust fund shall be utilized by the Mississippi War Veterans Memorial Commission for maintenance of the veterans monument and memorials.

SOURCES: Laws, 1986, ch. 342, § 5; Laws, 1991, ch. 392, § 2; reenacted without change, Laws, 1998, ch. 474, § 5; reenacted without change, Laws, 2000, ch. 455, § 5; reenacted and amended, Laws, 2001, ch. 455, § 5; reenacted without change, Laws, 2002, ch. 480, § 5; Laws, 2003, ch. 529, § 24; reenacted without change, Laws, 2004, ch. 545, § 5; reenacted without change, Laws, 2006, ch. 378, § 5; reenacted without change, Laws, 2010, ch. 472, § 5, eff from and after July 1, 2010.

Editor's Note — For repeal date of this section, see § 55-15-63.

Laws of 1986, ch. 342, § 6, as amended by Laws of 1990, Chapter 422, § 2, and Laws of 1990, Chapter 456, § 3, provides as follows:

"SECTION 3. This act shall take effect and be in force from and after passage, and shall stand repealed by operation of law from and after completion of the Veterans monument and completion of the Mississippi Confederate Memorial at the Shiloh National Military Park."

This section was reenacted without change by Laws of 2010, ch. 472, effective from and after July 1, 2010.

Cross References — Compensation of members of commission, see § 55-15-53.

Authority to construct and maintain monument, see § 55-15-55.

Authority to plan and provide for design, construction and dedication of monument and solicit private monetary donations, see § 55-15-57.

Duties of commission with respect to the Mississippi Confederate Memorial, see § 55-15-61.

Congressional Medal of Honor Monument Trust Fund created, see § 55-15-62.

ATTORNEY GENERAL OPINIONS

The Mississippi Veterans Monument Commission may spend funds in the Veterans Monument Trust Fund for the design, construction, and dedication of a monument recognizing Mississippi recipients of the Congressional Medal of Honor as provided by Senate Bill 3024 of the 2000 Regular Session as an addition to the Veterans Monument. Robertson, May 12, 2000, A.G. Op. #2000-0255.

The Mississippi Veterans Monument Commission may pay the travel expenses for Congressional Medal of Honor recipients to attend the dedication of a monument recognizing Mississippi recipients of the Congressional Medal of Honor with funds in the Congressional Medal of Honor Monument Trust Fund, which is created pursuant to Senate Bill 3024. Robertson, May 12, 2000, A.G. Op. #2000-0255.

§ 55-15-61. Powers and duties of commission as to Mississippi Confederate memorial; Shiloh Confederate Memorial Trust Fund; state matching funds; municipal donations [Repealed effective July 1, 2015].

(1) In addition to the duties assigned to the Mississippi Veterans Monument Commission in Sections 55-15-55, 55-15-57 and 55-15-59, Mississippi Code of 1972, the commission shall plan and provide for the design, construction and dedication of a Mississippi Confederate memorial at the Shiloh National Military Park. In planning the design, construction and dedication of the memorial, the commission shall consult with and be advised by an advisory committee composed of one (1) member of the House of Representatives appointed by the Speaker, one (1) member of the Senate appointed by the Lieutenant Governor, and three (3) representatives from the Mississippi Department of the Sons of Confederate Veterans. The Mississippi Department of the Sons of Confederate Veterans shall designate such representatives and certify them to the commission. The commission shall solicit private monetary donations for deposit into a Shiloh Confederate Memorial Trust Fund which is hereby created in the State Treasury. Private or corporate donations of any kind to the trust fund may be matched by the state using any appropriations

made for that purpose by the Legislature; however, any state match shall not exceed Two Hundred Fifty Thousand Dollars ($250,000.00) in the aggregate. The commission is also authorized to accept for deposit into the trust fund grants or donations made to it from any other source. All funds deposited in the trust fund shall be used exclusively for the purpose of designing, constructing and maintaining the monument.

(2) The board of supervisors of any county and the governing authorities of any municipality are hereby authorized and empowered, in their discretion, to make contributions out of any available county or municipal funds, as appropriate, to the Shiloh Confederate Memorial Trust Fund.

SOURCES: Laws, 1990, ch. 422, § 1; reenacted without change, Laws, 1998, ch. 474, § 6; Laws, 2000, ch. 455, § 6; reenacted without change, Laws, 2001, ch. 455, § 6; reenacted without change, Laws, 2002, ch. 480, § 6; reenacted without change, Laws, 2004, ch. 545, § 6; reenacted without change, Laws, 2006, ch. 378, § 6; reenacted and amended, Laws, 2010, ch. 472, § 6, eff from and after July 1, 2010.

Editor's Note — For repeal date of this section, see § 55-15-63.

The preamble to Laws of 1990, ch. 422, provides as follows:

"WHEREAS, the State of Mississippi is one of the only major participants in the Battle of Shiloh which has not erected a memorial to recognize its men who fought and died during that second great battle of the War Between the States; and

"WHEREAS, it is appropriate that there be an authorization to begin the process for designing, constructing and dedicating a suitable memorial: NOW, THEREFORE,"

§ 55-15-62. Congressional Medal of Honor Monument [Repealed effective July 1, 2015].

(1) In addition to the duties assigned to the Mississippi Veterans Monument Commission in Sections 55-15-55, 55-15-57 and 55-15-59, Mississippi Code of 1972, the commission is hereby authorized, subject to any available funds, to plan and provide for the design, construction and dedication of a monument recognizing Mississippi recipients of the Congressional Medal of Honor. In planning the design, construction and dedication of the monument, the commission shall consult with and be advised by the State Veterans Affairs Board. The commission may solicit private monetary donations for deposit into a Congressional Medal of Honor Monument Trust Fund which is hereby created in the State Treasury. Private donations to the trust fund may be accepted. The commission is also authorized to accept for deposit into the trust fund grants or donations made to it from any other source. All funds deposited in the trust fund shall be used exclusively for the purpose of designing, constructing and maintaining the monument.

(2) The board of supervisors of any county and the governing authorities of any municipality are hereby authorized and empowered, in their discretion, to make contributions out of any available county or municipal funds, as appropriate, to the Congressional Medal of Honor Monument Trust Fund.

SOURCES: Laws, 2000, ch. 396, § 1; reenacted without change, Laws, 2001, ch. 455, § 7; reenacted without change, Laws, 2002, ch. 480, § 7; reenacted without change, Laws, 2004, ch. 545, § 7; reenacted without change, Laws, 2006, ch. 378, § 7; reenacted without change, Laws, 2010, ch. 472, § 7, eff from and after July 1, 2010.

Editor's Note — For repeal date of this section, see § 55-15-63.
This section was reenacted without change by Laws of 2010, ch. 472, effective from and after July 1, 2010.

§ 55-15-63. Repeal of Sections 55-15-51 through 55-15-62.

Sections 55-15-51 through 55-15-62, Mississippi Code of 1972, which create and empower the Mississippi Veterans Monument Commission, are repealed on July 1, 2015.

SOURCES: Laws, 1997, ch. 466, § 3; Laws, 1998, ch. 474, § 7; Laws, 2000, ch. 455, § 7; Laws, 2001, ch. 455, § 8; Laws, 2002, ch. 480, § 8; Laws, 2004, ch. 545, § 8; Laws, 2006, ch. 378, § 8; Laws, 2010, ch. 472, § 8, eff from and after July 1, 2010.

VIETNAM VETERANS MEMORIAL

Sec.
55-15-71. Vietnam Veterans Memorial.

§ 55-15-71. Vietnam Veterans Memorial.

The board of supervisors of any county and the governing authorities of any municipality are hereby authorized and empowered, in their discretion, to make contributions out of any available county or municipal funds, as appropriate, to a nonprofit corporation established for the purpose of constructing a Vietnam Veterans Memorial on the Mississippi Gulf Coast.

SOURCES: Laws, 1989, ch. 458, § 1, eff from and after passage (approved March 25, 1989).

ALTERATION OF HISTORICAL MONUMENTS AND MEMORIALS

Sec.
55-15-81. Alteration of historical monuments and memorials prohibited; sanctions.

§ 55-15-81. Alteration of historical monuments and memorials prohibited; sanctions.

(1) None of the following items, structures or areas may be relocated, removed, disturbed, altered, renamed or rededicated: Any Revolutionary War, War of 1812, Mexican-American War, War Between the States, Spanish-American War, World War I, World War II, Korean War, Vietnam War, Persian Gulf War, War in Iraq or Native American Wars statues, monuments, memo-

rials or nameplates (plaques), which have been erected on public property of the state or any of its political subdivisions, such as local, municipal or county owned public areas, and any statues, monuments, memorials, nameplates (plaques), schools, streets, bridges, buildings, parks preserves, reserves or other public items, structure or areas of the state or any of its political subdivisions, such as, local, municipal or county owned public areas, which have been dedicated in memory of, or named for, any historical military figure, historical military event, military organization or military unit.

(2) No person may prevent the public body responsible for maintaining any of the items, structures or areas described above from taking proper measures and exercising proper means for the protection, preservation, care, repair or restoration of those items, structures or areas. The governing body may move the memorial to a more suitable location if it is determined that the location is more appropriate to displaying the monument.

(3) This section shall not apply to items, structures or areas located on property owned or acquired by the Mississippi Transportation Commission which may interfere with the construction, maintenance or operation of public transportation facilities.

SOURCES: Laws, 2004, ch. 463, § 1, eff from and after July 1, 2004.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (1), substituting "statues" for "statutes" following "War in Iraq or Native American Wars." The Joint Committee ratified the correction at its August 5, 2008, meeting.

Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a publishing error near the end of subsection (1). The words "has been dedicated" have been changed to "have been dedicated". The Joint Committee ratified the correction at its July 8, 2004, meeting.

CHAPTER 17

International Gardens of Mississippi

Sec.
55-17-1. Establishment of gardens authorized; financial aid.
55-17-3. Special advisory committee.
55-17-5. Park director.

§ 55-17-1. Establishment of gardens authorized; financial aid.

(1) There is hereby authorized to be established the International Gardens of Mississippi which shall be situated in Copiah County, Mississippi, on lands selected by the Joint Legislative International Gardens Commission created by House Concurrent Resolution No. 61 of the 1970 Regular Legislative Session. The site chosen shall be purchased by and the International Gardens of Mississippi shall be developed and maintained with funds to be furnished by the county or counties involved.

The Mississippi Department of Wildlife, Fisheries and Parks shall, in the development of said gardens, abide by the intent of House Concurrent Resolution No. 121 of the 1968 Regular Legislative Session, the intent and recommendations and reports of the Joint Legislative International Gardens Commission, and the final report concerning the proposed gardens as prepared by Mississippi State University for the Legislature wherever reasonable, practical and possible.

(2) The Mississippi Department of Wildlife, Fisheries and Parks may accept financial aid from the United States government, foundations, organizations, and public and private corporations unless expressly forbidden by the laws of the State of Mississippi. Aid, assistance, advice and gifts may be accepted from foreign nations or other states of the United States.

However, until completion of the improvements to the existing state parks designated in House Bill 660, Regular Session of 1972, no funds made available to the State of Mississippi under the Federal Land and Water Conservation Act of 1965 shall be used in the International Gardens of Mississippi.

SOURCES: Codes, 1942, § 5977.5-31; Laws, 1972, ch. 340, §§ 1, 2; Laws, 2000, ch. 516, § 124, eff from and after passage (approved Apr. 30, 2000.)

Cross References — Appointment of Park Director, see § 55-17-5.

Federal Aspects — Federal Land and Water Conservation Act of 1965, 16 USCS §§ 460l-4 et seq.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 4 et seq.

§ 55-17-3. Special advisory committee.

A special advisory committee for the International Gardens of Mississippi is hereby created which shall consist of two (2) members of the Department of Horticulture of Mississippi State University, as selected by the president of Mississippi State University, three (3) members of the senate to be appointed by the lieutenant governor, three (3) members of the house of representatives to be appointed by the speaker of the house, and four (4) members to be appointed by the Governor, one (1) of whom shall be a resident of each of the supreme court districts and one (1) of whom shall be a resident of Copiah County. At least one (1) of the members of the committee shall be a woman. The terms of office of the legislative members shall be concurrent with the term of office for which they were elected. The term of office of the official nonlegislative appointees shall terminate on January 1, 1977, and the terms of office of their successor shall terminate on January 1 every four (4) years thereafter.

SOURCES: Codes, 1942, § 5958-08 (last ¶); Laws, 1972, ch. 340, § 4, eff from and after passage (approved April 19, 1972).

§ 55-17-5. Park director.

The Mississippi Commission on Wildlife, Fisheries and Parks shall appoint, with the approval of the special advisory committee for the International Gardens of Mississippi, as established by Section 55-17-3, a Park Director of the International Gardens of Mississippi, who shall have administrative and supervisory authority of said gardens, under the general supervision and direction of the Mississippi Department of Wildlife, Fisheries and Parks.

SOURCES: Codes, 1942, § 5958-02(g); Laws, 1972, ch. 340, § 3; Laws, 2000, ch. 516, § 125, eff from and after passage (approved Apr. 30, 2000.)

Cross References — Mississippi Department of Wildlife, Fisheries and Parks generally, see §§ 55-3-31 et seq.

CHAPTER 19

Bienville Recreational District

Sec.

55-19-1. Creation of district authorized; member counties.
55-19-3. Resolution of intention as to county participation in district.
55-19-5. Board of directors.
55-19-7. Requirement and procedure for tax levy generally.
55-19-9. Effect of failure to levy tax.
55-19-11. Declaration of creation of district.
55-19-13. Addition of counties to district; amount of tax levy.
55-19-14. Reduction of tax levy.
55-19-15. General powers and authority of district.
55-19-17. Borrowing of money and issuance of bonds generally.
55-19-19. Details of bonds; interest; execution and negotiability of bonds; application of supplemental powers and authorizations provisions.
55-19-21. Sale and redemption of bonds; security for payment generally; restriction on amount of bonds.
55-19-23. Trust agreement as security for bonds.
55-19-25. Investment in bonds; bonds as security for deposits.
55-19-27. Refunding bonds.
55-19-29. Receipt and disbursement of gifts, grants and bequests.
55-19-31. Assessment and collection of taxes; annual budget.
55-19-33. Bond of district directors and employees.
55-19-35. Relocation of federal roads, highways, parkways or facilities.
55-19-37. Joint activities with other governmental organizations.
55-19-39. Construction contracts.
55-19-41. Effect of restrictions in other laws.
55-19-43. Exemption from taxation of projects or bonds.
55-19-45. Grants or advancements of funds by counties.
55-19-47. Construction of chapter.
55-19-49. Distribution of funds to member counties.

§ 55-19-1. Creation of district authorized; member counties.

It is hereby declared, as a matter of legislative determination: that East Central Mississippi is almost totally lacking in public parks, playgrounds, campgrounds, and related recreational facilities for citizens of the area to enjoy; that the area has therein a natural setting for the creation of all such recreational needs, particularly is this so in the Bienville National Forest comprising approximately one hundred ninety thousand (190,000) acres lying and being situated in four (4) East Central Mississippi counties; that by creation of this district, counties in East Central Mississippi will be empowered to acquire the use of this beautiful forest for regular use by all of the citizens of this state and frequent use by tourists who heretofore have had to seek their outdoor recreational pleasures in other places in distant states; that the creation of the Bienville Recreational District, with adequate but reasonable powers, with local assistance, cooperation and taxation, will greatly enhance the economic development and growth of the area; and that as a matter of public policy, the general welfare of the state warrants the enactment of this chapter.

The Bienville Recreational District may hereafter be created in East Central Mississippi under authority of this chapter and in the manner hereinafter provided. The counties eligible to become member counties of the district are those four (4) counties in which any part of the Bienville National Forest lies and other counties in Mississippi that are contiguous or nearly contiguous to said four (4) counties. Once created, the Bienville Recreational District shall be an agency of the state and a body politic and corporate.

SOURCES: Codes, 1942, § 5977.5-01; Laws, 1972, ch. 329, § 1, eff from and after passage (approved April 11, 1972).

Cross References — General powers and authority of district, see § 55-19-15.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds § 2.

§ 55-19-3. Resolution of intention as to county participation in district.

By July 10, 1972, the boards of supervisors of those counties eligible to become member counties of the Bienville Recreational District shall hold a public hearing at their respective courthouses or at some other appropriate hearing rooms whereby local citizens may have the opportunity to express their sentiments on the question of the county's becoming a member and a participant in the activities and objectives of the district. If a board of supervisors finds and determines that public sentiment substantially favors the purposes contained in this chapter, the board shall adopt a resolution declaring its intentions to become a member county of the Bienville Recreational District.

SOURCES: Codes, 1942, § 5977.5-02; Laws, 1972, ch. 329, § 2, eff from and after passage (approved April 11, 1972).

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds §§ 4, 5.

§ 55-19-5. Board of directors.

When each of the boards of supervisors of the four (4) counties wherein the Bienville National Forest lands lie has adopted a resolution for the creation of the Bienville Recreational District as provided in Section 55-19-3, the respective boards of supervisors shall appoint a person of good general reputation and sound business judgment to the board of directors for a four-year term, such term commencing at a date certain to be mutually agreed upon by the four (4) boards of supervisors. The Governor of the State of Mississippi within sixty

(60) days after creation of the district shall appoint two (2) members from the district-at-large to the board of directors for terms of four (4) years.

The clerk of each of the respective boards of supervisors and the governor shall advise the secretary of state of their appointees, and a commission shall be issued to all directors by the secretary of state.

All of the directors shall meet within sixty (60) days from the effective date of the commissions of the county directors in the courthouse of one (1) of the member counties at the time and place designated by the secretary of state of the State of Mississippi, and shall take and subscribe to the general oath of office as set forth in Section 268 of the state constitution and thereafter file said oath with the secretary of state.

The directors shall organize at said meeting by electing a president, vice president, and secretary-treasurer for one-year terms from among the directors present. This initial meeting of the board of directors and all subsequent meetings shall be a public record where official minutes of all proceedings shall be accurately and safely kept by the secretary of the board of directors of the district.

All members of the board of directors shall be entitled to twenty-two dollars and fifty cents ($22.50) per diem not to exceed twenty-three (23) days in a fiscal year.

SOURCES: Codes, 1942, §§ 5977.5-02, 5977.5-08; Laws, 1972, ch. 329, §§ 2, 8, eff from and after passage (approved April 11, 1972).

Cross References — Effect of failure to levy tax; dissolution of Blenville Recreational District, see § 55-19-9.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds §§ 9, 10.

§ 55-19-7. Requirement and procedure for tax levy generally.

(1) In order to become a permanent member county of the district, the board of supervisors shall levy a tax not to exceed two (2) mills on all of the taxable property of the county after a mandatory election is held on the question within the county.

(2) No more than sixty (60) days after the organizational meeting of the district, the board of supervisors of each of the member counties shall adopt a resolution calling a mandatory election to be held on a day certain on the question of levying or not levying up to two (2) mills on all taxable property of the county. The resolution shall be published in a weekly newspaper published in the county and, in the board's discretion, also published in a daily newspaper published in the county, once each week for three (3) consecutive weeks with the last publication being not less than ten (10) and not more than thirty (30) days prior to the date for the mandatory election on the proposition of the ad valorem tax levy described above. The election shall be held and

conducted so far as practical in the manner provided by general law for conducting general elections. At such election all qualified electors of the county may vote. The ballots used at such election shall have printed thereon a brief statement of the amount and purpose of the proposed tax levy and the words "FOR THE TAX LEVY" and "AGAINST THE TAX LEVY," and the voter shall vote by placing a cross (x) or a check mark (√) opposite his or her choice on the proposition. It is hereby declared that a majority of the votes cast at such election shall be necessary before the tax can be levied and the county become a permanent member of the Bienville Recreational District.

(3) When the returns of the election have been canvassed and the results determined by the county election commission, the election commission shall certify the results to the board of supervisors which shall, in turn, adjudicate the results of the election and enter an appropriate order upon its minutes declaring that said millage shall be levied when the next annual county tax levies are to be made, or enter an appropriate order upon its minutes declaring that such millage shall not be levied.

(4) No additional election shall be held on the proposition until the lapse of one (1) year.

SOURCES: Codes, 1942, § 5977.5-03; Laws, 1972, ch. 329, § 3; Laws, 1973, ch. 500, § 1, eff from and after passage (approved April 17, 1973).

Cross References — Conduct of elections generally, see §§ 23-15-541 et seq.

Effect of failure to levy tax, see § 55-19-9.

Effect of election results favoring tax levy, see § 55-19-11.

Addition of counties to district, § 55-19-13.

Reduction of tax levy, see § 55-19-14.

Bonds issued by district to be secured by a pledge of the avails of the two (2) mills tax levy provided for in this section, see § 55-19-17.

Funds from the avails of the tax levy provided in this section not to be received or disbursed until all of the original and necessary four (40 counties have agreed to levy the tax and ratified the creation and organization of the district, see § 55-19-29.

§ 55-19-9. Effect of failure to levy tax.

If the election for a tax levy as set out in Section 55-19-7 fails in any of the four (4) counties in which a part of the Bienville Recreational District lies, then that county is no longer a member, and the clerk of the board of supervisors of that county shall so advise the governor and the secretary of state of its removal. Since each of the four (4) said counties is essential to the district, the district shall be dissolved automatically upon the removal of any one (1) of such counties. However, the district may maintain the organization outlined in Section 55-19-5 for a period of two (2) years after such dissolution but its activities shall be limited to that of perfecting a district with four (4) permanent member counties.

SOURCES: Codes, 1942, § 5977.5-04; Laws, 1972, ch. 329, § 4, eff from and after passage (approved April 11, 1972).

Cross References — Effect of election results favoring tax levy, see § 55-19-11.

§ 55-19-11. Declaration of creation of district.

If the district is created and the four (4) counties do become permanent members and levy the tax outlined in Section 55-19-7, the board of directors of the district shall find and adjudicate, and its minutes shall so reflect, that the board of supervisors of each of the four-member counties has fully complied with the provisions of its duties under this chapter which include but are not limited to conducting the election, finding that it favored creating the district, levying an ad valorem tax, and appointing a member to the board of directors from each county. The minutes ratifying the organization of the district shall conclude by adjudicating that all lawful requisites have been done and performed to creating the Bienville Recreational District, and it shall be so declared to be an agency of the State of Mississippi and a body politic and corporate as of the date of said minutes to the extent and with the full force and effect as an arm of state government as if it had been created directly by the legislature.

SOURCES: Codes, 1942, § 5977.5-05; Laws, 1972, ch. 329, § 5, eff from and after passage (approved April 11, 1972).

Cross References — Effect of failure to levy tax, see § 55-19-9.
General powers and authority of district, see § 55-19-15.

§ 55-19-13. Addition of counties to district; amount of tax levy.

Other counties may become members of the district after the establishment of the district according to Sections 55-19-3 through 55-19-7 and 55-19-11 in the same manner but without regard to the time limits provided for the original and necessary four (4) counties to become member counties.

Provided, however, for membership in the district by other than the four (4) permanent counties, the millage requirements shall be no less than the following:

Counties with total assessed valuation above $60,000,000	½ mill
Counties with total assessed valuation of at least $30,000,000 and no more than $60,000,000	1 mill
Counties with total assessed valuation below $30,000,000	2 mills

Whenever such county becomes a member, the clerk of the board of supervisors of that county shall so advise the Secretary of State and forward the name and address of the director for said county. A commission will be issued to such director by the Secretary of State. The director shall then proceed to take and subscribe to his oath of office and thereby become a member of the board of directors with the same rights, responsibilities and privileges enjoyed by any other director.

SOURCES: Codes, 1942, § 5977.5-06; Laws, 1972, ch. 329, § 6; Laws, 1973, ch. 500, § 2, eff from and after passage (approved April 17, 1973).

Cross References — Oath of office, see Miss. Const. Art. 14, § 268.
Reduction of tax levy, see § 55-19-14.

§ 55-19-14. Reduction of tax levy.

After the formation of the district, if the board of directors should find that the millage levied is more than sufficient for the operation of the district and that there are no debts to be serviced, it may adopt a resolution permitting the lowering of the required millage set forth in Sections 55-19-7 and 55-19-13, Mississippi Code of 1972.

SOURCES: Laws, 1973, ch. 500, § 3, eff from and after passage (approved April 17, 1973).

§ 55-19-15. General powers and authority of district.

The district, upon ratification as required by Section 55-19-11, is hereby declared to have all the powers which it may deem reasonable, necessary and requisite to establish within the Bienville Recreational District recreational facilities of all types and kinds for the benefit of residents of the area and for nonresident citizens who shall be encouraged and invited to utilize these activities and facilities. Among these powers shall be the power to purchase, sell, exchange, lease, accept, receive or hold title or leasehold interest in real, personal and mixed property from any source whatsoever or to otherwise deal with any such property to the extent reasonably necessary to accomplish the purposes of the district. All such interests shall be received in the name of the State of Mississippi for the use and benefit of the Bienville Recreational District.

Further, the powers shall include the right to contract with the State Highway Department, the board of supervisors of the counties within the district, or any other state or federal agency for the construction and maintenance of roads and bridges. In the exercise of its powers the district may employ administrative, technical, fiscal and professional personnel as may be found necessary to implement the purposes of this chapter with such personnel's compensation to be established by the Mississippi Personnel Board; to adopt and use a seal; accept grants, gifts and bequests from the United States or any agency or department thereof, or from any other public or private source; establish a bank account or accounts; develop the recreational facilities and activities of the district by letting of public contracts and entering into public contracts; receive and disburse all funds for lawful purposes; make needful rules and regulations within the purposes of this chapter; do any and all other acts or things necessary and requisite to the exercise of the powers, rights, privileges or functions conferred upon the district by this chapter or other general laws of the state; and fix and collect rates and charges to residents and nonresident persons for the use of the district's cabins, boats, recreational and other related facilities.

It is expressly provided that the board of directors is subject to the general laws of the state to the same extent as any other state board, commission or department, including but not limited to the budget, state department of audit, public purchasing and public construction statutes.

SOURCES: Codes, 1942, § 5977.5-10; Laws, 1972, ch. 329, § 10; Laws, 1973, ch. 500, § 4; Laws, 1984, ch. 488, § 237, eff from and after July 1, 1984.

Editor's Note — Section 7-7-2, as added by Laws of 1984, ch. 488, § 90, and amended by Laws of 1985, ch. 455, § 14, and Laws of 1986, ch. 499, § 1, provided, at subsection (2) therein, that the words 'state auditor of public accounts,' 'state auditor,' and 'auditor' appearing in the laws of the state in connection with the performance of auditor's functions transferred to the state fiscal management board, shall be the state fiscal management board, and, more particularly, such words or terms shall mean the state fiscal management board whenever they appear. Thereafter, Laws of 1989, ch. 532, § 2, amended § 7-7-2 to provide that the words 'State Auditor of Public Accounts,' 'State Auditor' and 'Auditor' appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer, and, more particularly, such words or terms shall mean the State Fiscal Officer whenever they appear. Subsequently, Laws of 1989, ch. 544, § 17, effective July 1, 1989, and codified as § 27-104-6, provides that wherever the term 'State Fiscal Officer' appears in any law it shall mean "Executive Director of the Department of Finance and Administration."

Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

Cross References — Department of audit, see §§ 7-7-201 et seq.

RESEARCH REFERENCES

ALR. Nature of estate conveyed by deed for park or playground purposes. 15 A.L.R.2d 975.

Am Jur. 14 Am. Jur. Legal Forms 2d, Parks, Squares, and Playgrounds, §§ 192:19 et seq.

§ 55-19-17. Borrowing of money and issuance of bonds generally.

The board of directors of the district is hereby authorized and empowered to borrow money or issue bonds of the district for the purpose of paying the costs of acquiring, owning, constructing, operating, repairing and maintaining the projects and works specified herein, including related facilities, and including all financing and financial advisory charges, interest during construction, engineering, architectural, legal and other expenses incidental to and necessary for the foregoing or for the carrying out of any power conferred by this chapter. Said board of directors is authorized and empowered to borrow money and issue bonds at such times and in such amounts as shall be provided for by resolution of the said board of directors, not to exceed the limitation prescribed in Sections 55-19-19 et seq. All such bonds so issued by said district shall be secured solely by a pledge of the avails of the two (2) mills ad valorem tax levy provided for in Section 55-19-7, or so much thereof as may be necessary therefore, and of the net revenues as hereinafter defined, or so much thereof as may be necessary therefor. Such bonds shall not constitute general obligations of the State of Mississippi, but of the counties comprising said district and such bonds shall be secured by a pledge of the full faith, credit and resources of said district and of said counties jointly and severally. Bonds of the district shall not be included in computing any present or future debt limit of any county in such district under any present or future law. "Revenues" as used in this chapter shall mean all charges, rentals, tolls, rates, gifts, grants, tax proceeds, monies and all other funds coming into the possession of the district by virtue of the provisions of this chapter, except the proceeds from the sale of bonds issued thereunder, and except the avails of not to exceed the two-mill ad valorem tax levy provided for in Section 55-19-7. "Net revenues" as used in this chapter shall mean the revenues after payment of costs and expenses of operation and maintenance of the activities and related facilities of the district.

SOURCES: Codes, 1942, § 5977.5-12; Laws, 1972, ch. 329, § 12, eff from and after passage (approved April 11, 1972).

Cross References — Uniform system for issuance of county bonds, see §§ 19-9-1 et seq.

Additional powers conferred in connection with issuance of bonds, see §§ 55-19-19 and 31-21-5.

Sale and redemption of bonds, see § 55-19-21.

Trust agreement as security for bonds provided for in this section, see § 55-19-23.

Refunding bonds, see § 55-19-27.

Funds from the avails of any bonds issued under this section not to be received or disbursed until all of the original and necessary four (4) counties have agreed to levy the tax and ratified the creation and organization of the district, see § 55-19-29.

§ 55-19-19. Details of bonds; interest; execution and negotiability of bonds; application of supplemental powers and authorizations provisions.

(1) All such bonds provided for in Section 55-19-17 shall be lithographed or engraved and printed in two (2) or more colors to prevent counterfeiting. They shall be in denominations of not less than one thousand dollars ($1,000.00) nor more than five thousand dollars ($5,000.00), and may be registered as issued. They shall be numbered in a regular series from one (1) upward. Each such bond shall specify on its face the purpose for which it was issued, the total amount authorized to be issued, the interest on the bond, that it is payable to bearer, and that the interest to accrue thereon is evidenced by proper coupons attached thereto.

(2) Such bonds shall contain such covenants and provisions; shall be executed; shall be in such form, format, type, denomination or denominations; shall be payable as to principal and interest, at such place or places; and shall mature at such time or times, all as shall be determined by such board of directors and set forth in the resolution pursuant to which such bonds shall be issued. The date of maturity of such bonds shall not exceed thirty-five (35) years from the date of the bond.

(3) All bonds shall bear interest at such rate or rates not to exceed a net interest cost to maturity of seven percent (7%) per annum. No bond shall bear more than one (1) rate of interest. Each bond shall bear interest from its date to its stated maturity date at the interest rate specified in the bid. All bonds of the same maturity shall bear the same rate of interest. All interest accruing on such bonds so issued shall be payable semiannually, or annually, except that the first interest coupon attached to any such bond may be for any period not exceeding one (1) year. No interest payment shall be evidenced by more than one (1) coupon and supplemental coupons, cancelled coupons and zero interest coupons will not be permitted. No interest coupon shall vary more than twenty-five percent (25%) in interest rate for any other interest coupon in the same bond issue. The interest rate on any one (1) interest coupon shall not exceed seven percent (7%).

(4) Such bonds shall be signed by the president and secretary-treasurer of the district with the seal of the district affixed thereto; however, the coupons may bear only the facsimile signatures of such president and secretary-treasurer.

(5) Any provisions of the general laws to the contrary notwithstanding, any bonds and interest coupons issued pursuant to the authority of this chapter shall be securities within the meaning of Article 8 of the Uniform Commercial Code, being Sections 75-8-101 et seq., Mississippi Code of 1972. Such bonds and interest coupons shall be exempt from all state, county, municipal and other taxation under the laws of the State of Mississippi.

(6) Notwithstanding the foregoing provisions of this section, bonds referred to hereinabove may be issued pursuant to the supplemental powers and authorizations conferred by the provisions of the Registered Bond Act, being Sections 31-21-1 through 31-21-7.

SOURCES: Codes, 1942, § 5977.5-13; Laws, 1972, ch. 329, § 13; Laws, 1983, ch. 494, § 25, eff from and after passage (approved April 11, 1983).

Cross References — Uniform system for issuance of county bonds, see §§ 19-9-1 et seq.

Sale and redemption of bonds, see § 55-19-21.

Refunding bonds, see § 55-19-27.

Interest on the bonds issued under this chapter to be free from taxes imposed by state or political subdivisions or taxing districts, see § 55-19-43.

§ 55-19-21. Sale and redemption of bonds; security for payment generally; restriction on amount of bonds.

All bonds provided for herein shall be sold under the sealed bid procedure as designated in Section 31-19-25, Mississippi Code of 1972, and as additionally provided in this and other sections of this chapter. Each interest rate specified in any bid must be in a multiple of one-tenth of one percent (1/10 of 1%) or in multiples of one-eighth of one percent (1/8 of 1%), and a zero rate of interest cannot be named. Any premium must be paid in bank funds as a part of the purchase price, and bids shall not contemplate the cancellation of any interest coupon or the waiver of interest or other concession by the bidder as a substitute for bank funds. Any bonds issued under the provisions of this chapter shall be submitted to validation under the provisions of Sections 31-13-1 through 31-13-11, inclusive, Mississippi Code of 1972.

Such bonds may be called in, paid and redeemed in inverse numerical order on any interest date prior to maturity but not before ten (10) years after issued upon not less than thirty (30) days' notice to the paying agent or agents designated in such bonds, and at such premium as may be designated in such bonds. In no case shall any premiums exceed six percent (6%) of the face value of such bonds.

All such bonds shall contain in substance a statement to the effect that they are secured solely by a pledge of the avails of not to exceed two (2) mills ad valorem tax levy provided for in Section 55-19-7, or so much thereof as may be necessary therefor, and of the net revenues as hereinabove defined or so much thereof as may be necessary therefor, and they do not constitute general obligations of the State of Mississippi, but of the counties comprising said district, and are secured by a pledge of the full faith, credit and resources of said district and of such counties, jointly and severally.

This chapter shall be full and complete authority for the issuance of the bonds provided for herein, and no restriction or limitation otherwise prescribed by law shall apply herein. Bonds issued pursuant to this chapter shall not exceed fifteen million dollars ($15,000,000.00) in principal amount.

SOURCES: Codes, 1942, § 5977.5-14; Laws, 1972, ch. 329, § 14, eff from and after passage (approved April 11, 1972).

§ 55-19-23. Trust agreement as security for bonds.

At the discretion of the board of directors of the district, any bonds provided for in Section 55-19-17 may be further secured by a trust agreement between the board of directors and a corporate trustee, which may be any trust company or bank having powers of a trust company within or without the state. Any such trust agreement or any resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the right and remedies of the bondholders as are reasonable and proper and not in violation of law. The trust agreement may contain provision for the issuance of additional bonds for any of the purposes authorized by this chapter which shall be secured by the revenues pledged thereunder for such bonds to the extent provided therein. The trust agreement may include provisions to the effect that if there is any default in the payment of principal or interest on any of said bonds, any court having jurisdiction of the action may appoint a receiver to administer the properties and facilities of the district, including the authority to sell or make contracts for the sale of any services, facilities or commodities of the district or to renew such contracts, subject to the approval of the court appointing said receiver; and with the power to provide for the payment of such bonds outstanding, or the payment of operating expenses, and to apply the income and revenues to the payment of said bonds and interest thereon in accordance with the resolution of the board of directors authorizing the issuance of such bonds and said trust agreement. The fee for the services of any corporate trustee shall not exceed the normal charges for acting as paying agent plus any additional amount or amounts allowed by the court as the reasonable value of services rendered by the corporate trustee upon default in the payment of principal and interest on the bonds.

SOURCES: Codes, 1942, § 5977.5-15; Laws, 1972, ch. 329, § 15, eff from and after passage (approved April 11, 1972).

§ 55-19-25. Investment in bonds; bonds as security for deposits.

All bonds of the district shall be and are hereby declared to be legal and authorized investments for public funds of counties, cities, towns, school districts, banks, savings banks, trust companies, building and loan associations, savings and loan associations and insurance companies and for funds of the Mississippi Public Employees' Retirement System. Such bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Mississippi; such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

SOURCES: Codes, 1942, § 5977.5-16; Laws, 1972, ch. 329, § 16, eff from and after passage (approved April 11, 1972).

§ 55-19-27. Refunding bonds.

The board of directors of the district is hereby authorized to provide by resolution for the issuance of refunding bonds of the district for the purpose of refunding any bonds then outstanding and issued under authority of this chapter, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The issuance of such refunding bonds, the maturity and other details thereof, and the rights, duties and obligations of the board of directors and of the district in respect to such bonds shall be governed by the provisions of this chapter and the statutes providing for refunding revenue bonds issued by the municipalities of this state, insofar as they are applicable. In no event shall such bonds mature over a period of time exceeding thirty-five (35) years from date of issuance.

SOURCES: Codes, 1942, § 5977.5-17; Laws, 1972, ch. 329, § 17, eff from and after passage (approved April 11, 1972).

§ 55-19-29. Receipt and disbursement of gifts, grants and bequests.

The board of directors of the Bienville Recreational District shall be, and it is authorized, to receive and disburse any and all state, federal and private gifts, grants and bequests, including personal, real and mixed properties. However, said board shall not receive or disburse any funds from the avails of the tax levy provided in Section 55-19-7 or from the avails of any bonds issued or sold under the provisions of Section 55-19-17 until all of the original and necessary four (4) counties have agreed to levy the tax and the creation and organization of the Bienville Recreational District has been ratified as provided in Section 55-19-11.

SOURCES: Codes, 1942, § 5977.5-09; Laws, 1972, ch. 329, § 9, eff from and after passage (approved April 11, 1972).

§ 55-19-31. Assessment and collection of taxes; annual budget.

The ad valorem tax levies from the member counties shall be made, assessed and collected in the manner provided by general law for other county tax levies. The gross proceeds thereof shall be transmitted by county warrant from time to time to the secretary-treasurer of the district who shall forthwith deposit the same in one or more public depositories within the district which the board of directors is authorized to establish in the manner now provided by law for the selection of county depositories.

The board of directors shall make no expenditure until an annual budget for the operation of the district has been approved by the legislature after consideration by and upon recommendation of the legislative budget office.

SOURCES: Codes, 1942, § 5977.5-11; Laws, 1972, ch. 329, § 11; Laws, 1984, ch 488, § 238, eff from and after July 1, 1984.

Cross References — Local ad valorem tax levies generally, see §§ 27-39-301 et seq.

Joint legislative budget committee and legislative budget office generally, see §§ 27-103-101 et seq.

§ 55-19-33. Bond of district directors and employees.

The directors and all employees having responsibilities for the fiscal affairs of the district shall be covered by a reasonable blanket bond, the premium on which shall be paid from any funds available to the district.

SOURCES: Codes, 1942, § 5977.5-07; Laws, 1972, ch. 329, § 7, eff from and after passage (approved April 11, 1972).

§ 55-19-35. Relocation of federal roads, highways, parkways or facilities.

The board of directors of the district is hereby authorized and empowered to negotiate and contract with the United States of America, or any agency thereof, concerning all lands, easements and rights-of-way necessary for the relocation of any federal road, highway or parkway or for the facilities appurtenant thereto.

SOURCES: Codes, 1942, § 5977.5-18; Laws, 1972, ch. 329, § 18, eff from and after passage (approved April 11, 1972).

§ 55-19-37. Joint activities with other governmental organizations.

The district shall have authority to act jointly with other political subdivisions of the state and agencies, commissions and instrumentalities, and with the federal government and other agencies thereof, in the performance of the purposes and services authorized in this chapter, upon such terms as may be agreed upon by the directors.

The board of directors of the district shall have the authority to negotiate and contract with the secretary of the army under the provisions of Public Law 653, 85th Congress, or other applicable law or regulation written pursuant thereto.

SOURCES: Codes, 1942, § 5977.5-19; Laws, 1972, ch. 329, § 19, eff from and after passage (approved April 11, 1972).

§ 55-19-39. Construction contracts.

All construction contracts by the district where the amount of the contract shall exceed ten thousand dollars ($10,000.00) shall, and construction contracts of less than ten thousand dollars ($10,000.00) may, be made upon at least three (3) weeks' public notice. Such notice shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in such county. The first publication of such notice shall be made not less than twenty-one (21) days prior to the date fixed in such notice for the receipt of bids, and the last publication shall be made not more than seven (7) days prior to such date. The notice shall state the thing to be done and invite sealed proposals, to be filed with the secretary of the district, to do the work. In all such cases, before the notice shall be published, plans and specifications for the work shall be prepared by a registered professional engineer and shall be filed with the secretary of the district and there remain. The board of directors of the district shall award the contract to the lowest responsible bidder who will comply with the terms imposed by such directors and enter into bond with sufficient sureties to be approved by the directors in such penalty as shall be fixed by the directors; but in no case shall such bond be less than the contract price, conditioned for the prompt, proper and efficient performance of the contract. Contracts of less than ten thousand dollars ($10,000.00) may be negotiated; however, the board of directors shall invite and receive written proposals for the work from at least three contractors regularly engaged in the type of work involved.

SOURCES: Codes, 1942, § 5977.5-20; Laws, 1972, ch. 329, § 20, eff from and after passage (approved April 11, 1972).

§ 55-19-41. Effect of restrictions in other laws.

The provisions of any other law, general, special or local, except as provided in this chapter, shall not limit or restrict the powers granted by this chapter.

SOURCES: Codes, 1942, § 5977.5-21; Laws, 1972, ch. 329, § 21, eff from and after passage (approved April 11, 1972).

§ 55-19-43. Exemption from taxation of projects or bonds.

The accomplishment of the purposes stated in this chapter being for the benefit of the people of this state and for their improvement, the district in carrying out the purposes of this chapter will be performing an essential public function and shall not be required to pay any tax or assessment on the projects and related facilities or any part thereof. The interest on the bonds issued hereunder shall at all times be free from taxation within this state, and the state hereby covenants with the holder of any bonds to be issued hereunder that the Bienville Recreational District shall not be required to pay any taxes or assessments imposed by the state or any of its political subdivisions or taxing districts.

SOURCES: Codes, 1942, § 5977.5-22; Laws, 1972, ch. 329, § 22, eff from and after passage (approved April 11, 1972).

§ 55-19-45. Grants or advancements of funds by counties.

Any county which is within the territorial limits of the district may grant or advance funds to said district to pay the preliminary expenses, including engineers' reports, attorney fees, organization or administration expenses, on such terms of repayment as the governing body of such county shall determine. Notwithstanding the provision of any law to the contrary, any such county is authorized and empowered to borrow money for a period not to exceed one (1) year from the date of such borrowing, for the purpose of making such grants or advances. The board of directors is hereby authorized to repay any such advances from the proceeds of any funds for bonds issued under the provisions of this chapter. The said district is authorized to expend all funds coming into its depository for any legitimate purpose authorized by this chapter.

SOURCES: Codes, 1942, § 5977.5-23; Laws, 1972, ch. 329, § 23, eff from and after passage (approved April 11, 1972).

§ 55-19-47. Construction of chapter.

Nothing in this chapter shall be construed to violate any provision of the federal or state constitutions, and all acts done under this chapter shall be done in such manner as will conform thereto, whether therein expressly provided or not. Where any procedure thereunder may be held by any court to be violative of either of such constitutions, the district shall have the power by resolution to provide any alternative procedure conformable with such constitutions. If any provisions of this chapter shall be invalid, such fact shall not affect the creation of the district or the validity of any other provision of this chapter, and the legislature here declares that it would have permitted the creation of the district and enacted the valid provisions of this chapter, notwithstanding the invalidity of any other provision or provisions thereof.

SOURCES: Codes, 1942, § 5977.5-24; Laws, 1972, ch. 329, § 24, eff from and after passage (approved April 11, 1972).

§ 55-19-49. Distribution of funds to member counties.

After the payment of any costs or expenses incurred under Section 55-19-1 et seq., all charges, tolls, rates, gifts, grants, bequests, monies, tax proceeds and all other funds from any source whatsoever, with accrued interest, if there be any, which came into the possession of the Bienville Recreational District by virtue of the provisions of Section 55-19-1 et seq., shall be distributed to the member counties on the same basis that said funds were received from the member counties. Real, personal or mixed property shall be sold at a fair market value and the proceeds therefrom shall be distributed to member counties on a pro rata basis. All funds distributed to the member counties shall be deposited into the general fund of the county.

SOURCES: Laws, 1979, ch. 431; Laws, 1981, ch. 489, § 1, eff from and after passage (approved April 15, 1981).

CHAPTER 21

Mississippi Zoological Park and Garden Districts

Sec.	
55-21-1.	Short title.
55-21-3.	Formation of districts.
55-21-5.	Establishment of district board; composition; appointment and terms of office of members of board.
55-21-7.	Officers of board; appointment of director; meetings; compensation of members of board.
55-21-9.	General powers and duties of board.
55-21-11.	Powers and duties of director.
55-21-13.	Municipal contributions to districts.

§ 55-21-1. Short title.

This chapter shall be called the "Mississippi Zoological Park and Garden District Act."

SOURCES: Laws, 1980, ch. 469, § 2, eff from and after July 1, 1980.

RESEARCH REFERENCES

Am Jur. 59 Am. Jur. 2d, Parks, Squares, and Playgrounds §§ 4 et seq.

§ 55-21-3. Formation of districts.

The board of supervisors of any county by itself or by joining with the board of supervisors of any county adjacent to such county may form a zoological park and garden district. The board of supervisors of any county or counties wishing to form such a district may do so by entering into a contract for the construction, expansion, remodeling and/or maintenance and equipping of such zoological park and garden. Such contract or any future contract may provide for the continued use, equipping, repairing, reconstructing and remodeling of such park and garden.

SOURCES: Laws, 1980, ch. 469, § 2, eff from and after July 1, 1980.

Cross References — Municipal contributions to districts, see § 55-21-13.

§ 55-21-5. Establishment of district board; composition; appointment and terms of office of members of board.

Such zoological park district established as provided for in Section 55-21-3 shall establish a district zoological park and garden board which shall supervise and control the zoological park. The district zoological park and garden board, hereinafter referred to as the board, shall consist of three (3) representatives from each participating county. Each member shall be appointed by the governing authority of the entity he represents for a term of six (6) years and until his successor is appointed and qualified.

SOURCES: Laws, 1980, ch. 469, § 3, eff from and after July 1, 1980.

Cross References — General powers and duties of board, see § 55-21-9.

§ 55-21-7. Officers of board; appointment of director; meetings; compensation of members of board.

(1) The board shall annually elect a chairman from among its members and such other officers as it may deem necessary for the performance of its duties. It shall appoint a director to serve at its pleasure, and who shall be chosen solely on the basis of his training, experience and other qualifications in the field of zoo management. The director shall act as executive secretary of the board and appoint administrative officers and employees of the board with the approval of the board. With the approval of the board he shall exercise the powers and duties set forth in Section 55-21-9.

(2) The board shall meet at such times and places as it may determine. Each voting member of the board shall be paid a per diem compensation of twenty-two dollars and fifty cents ($22.50) and shall be reimbursed for all reasonable expenses incurred in the performance of his duties in the same manner as other state employees and officers are reimbursed for such expenses.

SOURCES: Laws, 1980, ch. 469, § 4, eff from and after July 1, 1980.

Cross References — Powers and duties of director, see § 55-21-11.

§ 55-21-9. General powers and duties of board.

The board shall possess the following powers, duties and responsibilities:

(a) The board shall acquire, construct, equip, operate and maintain the district zoological park and garden at a site to be selected by the board. Prior to selection of the site, the board shall prepare a comprehensive plan for site location and development. The zoological district may acquire by gift, purchase or condemnation a site for the zoological park and garden. The district zoological park and garden shall consist of adequate facilities and structures for the collection, habitation, preservation, care, exhibition, examination or study of wild and domestic animals, including, but not limited to, mammals, birds, fish, amphibians, reptiles, crustaceans and mollusks. The board may provide such lands, buildings and equipment as it deems necessary for parking, transportation, entertainment, education or instruction of the public in connection with such zoological park and garden.

(b) The board is hereby authorized to acquire interests in real estate and personal property through purchase, donation, bequest or devise in furtherance of the purposes of this chapter and otherwise in accordance with the provisions of law. The board is further authorized to sell, convey, assign, mortgage or lease any interest in real estate which has been purchased, donated, bequeathed or devised to the zoological district but which is not suitable for a zoo park and such interest may include, but shall not be limited to, fee simple interests and life estates.

The board is hereby authorized and empowered, in its discretion, to lease land on a yearly basis.

Before such real estate is sold, conveyed, assigned, purchased or leased, the fair market value of such real estate shall be determined by the averaging of at least three (3) appraisals by Mississippi members of the American Institute of Real Estate Appraisers. Such appraisals shall be paid for by the board.

The board shall not sell, convey, assign or lease any interest in real property which it has acquired from the State of Mississippi. There shall be no appraisal required for real property leased from the state for use in a district zoological park.

The board is hereby authorized to obtain abstracts and surveys, and to engage the services of attorneys to conduct the above described transactions. The board is authorized to obtain title insurance on property purchased if, in the opinion of the board, the best interests of the zoological district would be served.

(c) The board may conduct research studies and programs, collect and analyze data and prepare reports, maps, charts and other information relating to the zoological park and garden, or any wild or domestic animals, or may contract for any of such services without complying with the requirements of competitive bidding.

(d) The board may appoint an advisory committee consisting of persons who are members of zoological societies or who have shown a background or interest in such societies or zoo management.

(e) The board may accept and use gifts, grants or contributions from any source.

(f) The board may enact regulations governing the efficient protection of the zoological park and garden and related facilities and the conduct of persons entering therein.

(g) The board shall comply with all state and federal laws and any rules or regulations prescribed by any agency of the state and federal government relating to the quarantine, transportation, examination, habitation, care and treatment of wild animals.

(h) The board shall have all powers necessary or convenient to discharge the duties imposed upon it by law, and to operate the zoological park and garden in the manner which will best serve the public.

(i) The board shall report to the governing authorities of the participating municipalities and the board of supervisors of participating counties each year on the activities of the board and the operation of the zoological park and garden. These entities shall evaluate the activities of the board and the operation of the zoological park and garden.

SOURCES: Laws, 1980, ch. 469, § 5, eff from and after July 1, 1980.

§ 55-21-11. Powers and duties of director.

Subject to the other provisions of this chapter, the director shall have the following powers and duties:

(a) Subject to the approval of the board, the director shall organize the district zoological park and garden and provide for such officers, agents and employees necessary for the operation thereof. These positions shall be filled solely on the basis of training, experience and other qualifications in the field of zoo management.

(b) As the executive secretary and principal administrative officer of the board, and subject to its approval, the director shall operate the district zoological park and garden and enforce all regulations and policy decisions of the board in regard thereto. He shall perform such other duties as may be directed by the board.

(c)(i) As directed by the board, the director may establish a schedule of charges for admission to or the use of the district zoological park and garden or any related facility, except as provided in paragraph (d) of this section, provide for the sale of gifts, souvenirs, food and beverages, and grant concessions for the sale of such items. The granting of any concessions relative to food, beverages and transit shall not be subject to the competitive bidding procedures, except as provided in subparagraph (ii) of this paragraph.

(ii) In the granting of such concessions, a contract for such concessions shall be made either upon sealed bids or by direct negotiation by obtaining two (2) or more quotations for the service when possible. At least thirty (30) days before awarding a directly negotiated contract, the zoological board shall, by written published notice, request quotations for the service to be provided. All quotations obtained shall be kept on file for a period of at least one (1) year after receipt thereof. If a contract is made upon sealed bids, the procedure for advertising and awarding bids shall conform to the provisions for competitive bidding in the laws of Mississippi.

(d) In order to encourage and permit the use of and access to the district zoological park and garden, the board shall establish an admissions policy providing for free admission to the district zoological park and garden for all visitors on certain days distributed throughout each year.

SOURCES: Laws, 1980, ch. 469, § 6, eff from and after July 1, 1980.

Cross References — Powers and duties of board, see § 55-21-9.

§ 55-21-13. Municipal contributions to districts.

Any municipality within a zoological park and garden district may contribute to such district from any available source.

SOURCES: Laws, 1980, ch. 469, § 7, eff from and after July 1, 1980.

CHAPTER 23

Mississippi Veterans Memorial Stadium

Sec.
55-23-1. Legislative findings and declaration of intent.
55-23-3. Short title of Sections 55-23-3 through 55-23-11.
55-23-5. Creation of Mississippi Veterans Memorial Stadium Commission; composition; qualifications, appointment, terms of office and compensation of members; officers; quorum; director.
55-23-6. Transfer of operational, administrative and managing powers and duties over Mississippi Veterans Memorial Stadium to Jackson State University; transfer of certain parcels of Mississippi Veterans Memorial Stadium property.
55-23-7. Construction, renovation, repair and reconstruction of facilities and property of stadium.
55-23-8. Lease of Mississippi Veterans Memorial Stadium property; compliance with existing lease agreements by Jackson State University and University of Mississippi Medical Center.
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55-23-45. Authorization of repair, remodeling and enlargement of stadium; public parking facilities.
55-23-47. Provisions governing repair, remodeling and enlargement of stadium.
55-23-49. Funding of repair, remodeling and enlargement of stadium.
55-23-51. Designation of athletic field as “A.C. (Butch) Lambert Field.”

55-23-53. Scheduling of football games at stadium.

§ 55-23-1. Legislative findings and declaration of intent.

The Legislature hereby finds and determines:

(a) That the Fifty Cents (50¢) per ticket charge and the one-fourth (¼) of the amusement tax provided in Section 7 of Chapter 360, Laws of 1979, as amended by Chapter 456, Laws of 1985, have been insufficient in recent years to fully provide for the payment of the principal of and interest on bonds issued under said Chapter 360; that the proceeds of the charge and tax are, upon their deposit to the Mississippi Memorial Stadium Fund, commingled with other amounts intended for the payment of stadium operating costs; that in recent years amounts intended to pay operating costs have been diverted to pay said bonds; and that the imposition of such charge and tax at current levels is causing events not to be conducted at the Mississippi Veterans Memorial Stadium, thereby jeopardizing the continued viability of said stadium; and

(b) That it is the intent of the Legislature, by the enactment of this chapter, to provide a reasonable procedure for the payment of the bonds from the General Fund of the state, without adversely affecting the security interests of the holders of the bonds, in order to provide for the continued viability of the stadium.

SOURCES: Laws, 1989, ch. 548, § 1, eff from and after passage (approved April 19, 1989).

Editor's Note — Section 55-23-9 provides that any reference in the laws of Mississippi to the "Mississippi Memorial Stadium Fund" or the "Mississippi Veterans Memorial Stadium Fund" shall mean the "Mississippi Veterans Memorial Stadium Operating Fund" unless the context clearly indicates otherwise.

§ 55-23-3. Short title of Sections 55-23-3 through 55-23-11.

Sections 55-23-3 through 55-23-11 may be cited as "The Mississippi Veterans Memorial Stadium Act."

SOURCES: Laws, 1960, ch. 390, § 1; Laws, 1989, ch. 548, § 2, eff from and after passage (approved April 19, 1989).

§ 55-23-5. Creation of Mississippi Veterans Memorial Stadium Commission; composition; qualifications, appointment, terms of office and compensation of members; officers; quorum; director.

There is hereby created a commission to be known as "The Mississippi Veterans Memorial Stadium Commission," hereinafter sometimes referred to as the commission, which shall consist of six (6) members as follows:

(a) One (1) member shall be appointed by the Mayor of the City of Jackson, Mississippi;

(b) One (1) member shall be selected by the Board of Trustees of State Institutions of Higher Learning from among the membership of the board or shall be some other person designated by the board;

(c) Two (2) members shall be appointed by the Governor from the state at large outside of Hinds County, Mississippi, and one (1) member shall be appointed by the Governor from Hinds County, Mississippi. The appointee from Hinds County may be selected from a list of three (3) persons submitted by the Hinds County Board of Supervisors to the Governor;

(d) One (1) member shall be the President of Jackson State University, or his designee.

Terms of members shall begin on May 1, 1987, as follows: Of the members appointed by the Governor, one (1) shall serve for a term of one (1) year, one (1) for a term of two (2) years and one (1) for a term of three (3) years; the member appointed by the Mayor of the City of Jackson shall serve for a term of four (4) years; and the member representing the Board of Trustees of State Institutions of Higher Learning shall serve for a term of five (5) years. Upon the expiration of the foregoing terms, members shall serve for terms of five (5) years each. The appointing authority shall fill any vacancy in the above terms by appointment of a member for the unexpired term. Members shall be eligible for reappointment. An appointed member serving on the commission on April 30, 1987, shall be eligible for appointment to the commission for a term beginning May 1, 1987, of either one (1), two (2), three (3), four (4) or five (5) years, if such member is otherwise qualified. One (1) member of the commission appointed by the Governor shall be a person knowledgeable in marketing with at least three (3) years actual experience therein and one (1) member appointed by the Governor shall be a person of recognized ability in a trade or business with at least five (5) years actual experience therein. From and after May 1, 1987, the name of the commission shall be the "Mississippi Veterans Memorial Stadium Commission" and any references in Sections 55-23-3 through 55-23-11 to the Mississippi Memorial Stadium Commission or commission shall mean the Mississippi Veterans Memorial Stadium Commission unless the context clearly indicates a different meaning. From and after May 1, 1987, the stadium shall be known as the "Mississippi Veterans Memorial Stadium." The commission is authorized to accept donations of money, property or services from any public or private source to accomplish any physical replacement or alterations of stadium property necessary to accomplish the renaming of the stadium.

The members of the commission shall serve without compensation except that members shall be paid their actual and necessary expenses in connection with the performance of their duties as members of the commission, including mileage, as authorized in Section 25-3-41, Mississippi Code of 1972, plus a per diem as is authorized by Section 25-3-69, Mississippi Code of 1972, while engaged in the performance of their duties. The expenses, mileage and per diem allowance shall be paid out of the Mississippi Veterans Memorial Stadium Fund.

The commission shall elect from its membership a chairman who shall preside over meetings and a vice chairman who shall preside in the absence of the chairman. Three (3) members of the commission shall constitute a quorum for the transaction of any and all business of the commission.

The powers of the commission shall be exercised by a majority of the members thereof, but it may delegate to one or more of its members, or to its agents and employees, such powers and duties as it may deem proper, and may adopt rules and regulations for the conduct of its business and affairs. The commission shall contract with a certified public accounting firm to conduct audits of concession and novelty sales by vendors at the stadium. The commission shall, as far as is practicable, provide that the cost of such audits shall be paid by the vendor of such concessions or novelties, or both.

The commission shall appoint a director who shall have at least a bachelor's degree from an accredited university or college. The director shall have the responsibility for insuring the marketing of tickets to events conducted in the stadium, in addition to such other duties as the commission may designate. Before entering upon the duties of his office, the director shall give bond to the State of Mississippi in the sum of Fifty Thousand Dollars ($50,000.00), and said bond shall be conditioned upon the faithful discharge and performance of his official duty. The principal and surety on said bond shall be liable thereunder to the state for double the amount of value of any money or property which the state may lose, if any, by reason of any wrongful or criminal act of said director. Said bond, when approved by the commission, shall be filed with the Secretary of State, and the premium thereon shall be paid from the Mississippi Veterans Memorial Stadium Fund.

SOURCES: Laws, 1960, ch. 390, § 2; Laws, 1987, ch. 471, § 1; Laws, 1989, ch. 548, § 2; Laws, 2006, ch. 481, § 3, eff from and after passage (approved Mar. 27, 2006.)

Editor's Note — Section 55-23-6 provides that the terms "Department of Finance and Administration," "Mississippi Veterans Memorial Stadium Commission" and "commission," when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean "Jackson State University" or "University Medical Center," as applicable.

Section 55-23-9 provides that any reference in the laws of Mississippi to the "Mississippi Memorial Stadium Fund" or the "Mississippi Veterans Memorial Stadium Fund" shall mean the "Mississippi Veterans Memorial Stadium Operating Fund" unless the context clearly indicates otherwise.

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 through 37-101-30.

Jackson State University generally, see Chapter 125, Title 37.

§ 55-23-6. Transfer of operational, administrative and managing powers and duties over Mississippi Veterans Memorial Stadium to Jackson State University; transfer of certain parcels of Mississippi Veterans Memorial Stadium property.

(1) From and after March 16, 2011:

(a)(i) The Department of Finance and Administration as managing agency for the Mississippi Veterans Memorial Stadium, upon consultation with Jackson State University and the Department of Health, shall transfer the operational, administrative and managing powers and duties over the Mississippi Veterans Memorial Stadium to Jackson State University, subject to an agreement reached by the Department of Finance and Administration, Jackson State University and the University of Mississippi Medical Center.

(ii) The Department of Finance and Administration as managing agency for the Mississippi Veterans Memorial Stadium, upon consultation with Jackson State University, the University of Mississippi Medical Center and the Department of Health, shall transfer, the real property located in Hinds County, Mississippi, generally known as the "Mississippi Veterans Memorial Stadium Property," being any property under the jurisdiction of the Department of Finance and Administration as of July 1, 2008, and any other state-owned property located in the area bounded on the north by Taylor Street, on the west by North West Street, on the south by Woodrow Wilson Avenue and on the east by North State Street used as part of or in connection with the Mississippi Veterans Memorial Stadium, to Jackson State University and the University of Mississippi Medical Center in accordance with the provisions of this section and Sections 55-23-8 and 55-23-9 and subject to an agreement reached by the Department of Finance and Administration, the University of Mississippi Medical Center and the developer of the property with whom the Department of Finance and Administration entered into a development lease agreement on July 13, 1993, as amended by an agreement on August 19, 1994, less and except any portion of real property excluded from the development agreement pursuant to a settlement agreement issued in the Circuit Court of Hinds County, Mississippi, on September 16, 2009, better described as Parcel B recorded in Book 4216, page 330, at Hinds County Courthouse, First Judicial District, Jackson, Mississippi;

(b)(i) The property that is the subject of the development agreement entered into on July 13, 1993, as amended by an agreement on August 19, 1994, less and except any portion of real property excluded from the development agreement pursuant to a settlement agreement issued in the Circuit Court of Hinds County, Mississippi, on September 16, 2009, better described as Parcel B recorded in Book 4216, page 330, at Hinds County Courthouse, First Judicial District, Jackson, Mississippi, shall be transferred to the University of Mississippi Medical Center;

(ii) The remainder of the Mississippi Veterans Memorial Stadium Property shall be transferred from the Department of Finance and Administration to Jackson State University, until such time as Jackson State University relocates its home football games to another venue. Once Jackson State University relocates its home football games to another venue, the portion of Mississippi Veterans Memorial Stadium Property conveyed to Jackson State University under this subsection (1) shall be transferred to the University of Mississippi Medical Center. From and after March 16, 2011, and at the point Jackson State University assumes possession of an operation of the real property transferred in this paragraph, Jackson State University shall have a three-year option to transfer said property back to the State of Mississippi;

(c) All necessary records, property, funds and other assets of the Mississippi Veterans Memorial Stadium shall be transferred from the Department of Finance and Administration to Jackson State University and/or the University of Mississippi Medical Center as applicable, in proportion to the interests that each such entity retains in the real property transferred under paragraphs (a) and (b) of this subsection; and

(d) Unless otherwise provided in the provisions of this section and Sections 55-23-8 and 55-23-9, any personal service, management or other contracts of like nature entered into by the Department of Finance and Administration, as such may apply to the properties transferred under paragraphs (a) and (b) of this subsection, shall be transferred to, acknowledged and complied with by Jackson State University and the University of Mississippi Medical Center as applicable to the interests that each such entity retains in the real property transferred under paragraphs (a) and (b) of this subsection.

(2) Any agreement reached by the Department of Finance and Administration, the University of Mississippi Medical Center and the current developer shall comply with all requirements of this section and Sections 55-23-8 and 55-23-9.

(3) From and after March 16, 2011, wherever the term "Department of Finance and Administration," the term "Mississippi Veterans Memorial Stadium Commission" or the term "commission," when referring to the Mississippi Veterans Memorial Stadium Commission, appears in the laws of the state, the terms shall mean "Jackson State University" or the "University of Mississippi Medical Center," which shall be applicable to the interests that each such entity retains in the property transferred under subsection (1)(b) as stipulated in any agreement entered into by the Department of Finance and Administration, Jackson State University, the University of Mississippi Medical Center and the developer of the property for the transfer of such property and the administration and operations relating thereto.

SOURCES: Laws, 2007, ch. 605, § 3; Laws, 2008, ch. 500, § 1; Laws, 2011, ch. 426, § 1, eff from and after July 1, 2011.

Cross References — Department of Finance and Administration, see §§ 27-104-101 et seq.

§ 55-23-7. Construction, renovation, repair and reconstruction of facilities and property of stadium.

Any construction, renovation, repair and reconstruction to the facilities and property of the Mississippi Veterans Memorial Stadium shall be carried on under the direction of the commission, which is authorized to make and enter into such contracts, agreements and undertakings as may be necessary to effect this purpose. The commission may take any action authorized in Section

55-23-8, relating to the facilities and property of the Mississippi Veterans Memorial Stadium.

SOURCES: Laws, 1960, ch. 390, § 3; Laws, 1989, ch. 548, § 2; Laws, 1990, ch. 312, § 2; Laws, 2001, ch. 602, § 2, eff from and after passage (approved Apr. 16, 2001.)

§ 55-23-8. Lease of Mississippi Veterans Memorial Stadium property; compliance with existing lease agreements by Jackson State University and University of Mississippi Medical Center.

(1) Jackson State University and the University of Mississippi Medical Center shall comply fully with the terms of any lease agreement entered into by the Department of Finance and Administration with any public or private entity for that portion of the Mississippi Veterans Memorial Stadium Property transferred to and under its jurisdiction as provided in Section 55-23-6, including the existing lease agreement between the Department of Finance and Administration and the University of Mississippi Medical Center entered into on February 23, 2009, as amended from time to time, unless and except that public or private entity breaches the terms of the lease agreement or defaults on lease payments or upon an agreement of the parties to terminate.

(2) The University of Mississippi Medical Center may enter into agreements with any developer for the property conveyed to the University of Mississippi Medical Center under Section 55-23-6, or any lessee or lessees (or any designee of any such lessee or lessees), which agreements may extend over any period of time not exceeding the term of such lease (including renewals and extensions), pursuant to which the state shall be obligated to purchase contractual rights and/or improvements constructed on such property and/or any residual rights in connection with such improvements upon terms and for a purchase price, not to exceed Ten Million Dollars ($10,000,000.00).

(3) The University of Mississippi Medical Center, in its discretion, is authorized to enter into all other agreements as may be necessary or appropriate in connection with any financing by any lessee or lessees (or any designee of any such lessee or lessees) of any improvements to be constructed on property leased from the University of Mississippi Medical Center.

(4) Any lease, renewal thereof, or other agreement entered into by the University of Mississippi Medical Center under this section shall not be valid unless approved by the Board of Trustees of State Institutions of Higher Learning.

(5) Any lessee or lessees (or any designee of any such lessee or lessees) of property leased from the University of Mississippi Medical Center under this section shall not be considered as being the state, any political subdivision of the state or any officer or servant of the state for the purposes of any liability that may be waived under Section 11-46-1 et seq.

(6) The University of Mississippi Medical Center, or the Department of Finance and Administration, acting on behalf of the state or any state agency,

is authorized to perform any additional steps and necessary duties to fully implement the provisions of this section and Sections 55-23-6 and 55-23-9, as the exercise of such authority relates to the negotiation or renegotiation of certain leases or acquiring rights in any property under any existing lease with the Department of Finance and Administration.

(7) In addition to the requirement imposed upon the University of Mississippi Medical Center and Jackson State University to fully comply with the terms of all lease agreements entered into concerning the "Mississippi Veterans Memorial Stadium Property," the process of eminent domain shall not be used to acquire possession of any property interest leased under the provision of any existing development lease entered into on the property at anytime before the expiration of the term of the original lease or any amendment made thereto.

SOURCES: Laws, 2001, ch. 602, § 1; Laws, 2007, ch. 605, § 1; Laws, 2008, ch. 500, § 2; Laws, 2011, ch. 426, § 2, eff from and after July 1, 2011.

Editor's Note — Laws of 2007, ch. 605, § 2, which provided the legislative intent to authorize the Department of Finance and Administration to cancel the leases of Mississippi Veterans Memorial Stadium Property, was repealed by Laws of 2011, ch. 426, § 4, effective from and after July 1, 2011.

Laws of 2007, ch. 605, § 4, as amended by Laws of 2008, ch. 500, § 3, provides:

"SECTION 4. (1) There is created a special committee for the purpose of consulting with the Department of Finance and Administration on the lease of the property authorized in Section 55-23-8, Mississippi Code of 1972, and for the purpose of studying the Mississippi Veterans Memorial Stadium to make recommendations regarding its management and operations. The committee shall also study the disbursement of revenue generated from the lease of stadium property. The committee shall be composed of the following members:

"(a) The Chairmen of the Senate and House Public Property Committees, who shall serve as co-chairmen;

"(b) The Chairmen of the Senate Finance Committee and the House Ways and Means Committee, or their designee;

"(c) One (1) member of the House of Representatives, to be appointed by the Speaker of the House; and

"(d) One (1) member of the Senate, to be appointed by the Lieutenant Governor;

"(e) The President of Jackson State University, or his designee;

"(f) The Vice-Chancellor of Health Affairs at the University of Mississippi Medical Center, or his designee;

"(g) The State Health Officer, or his designee; and

"(h) The President of Jackson State University National Alumni Association, or his designee.

"(2) Members of the committee who are not legislators shall not receive any compensation or per diem, but may receive travel reimbursement provided under Section 25-3-41. Legislative members of the committee shall receive per diem, travel or other expenses, if authorized by the Management Committees of the Senate and the House of Representatives, from the contingent expense funds of their respective houses in the same amounts as provided for committee meetings when the Legislature is not in session; provided that no per diem or expense for attending meetings of the committee shall be paid while the Legislature is in session.

"(3) Upon submitting its recommendations to the Legislature, the committee shall be dissolved.

"(4) The Department of Finance and Administration, in consultation with Jackson State University, shall enter into a contract with a consultant to study the Mississippi Veterans Memorial Stadium and make suggestions regarding its management, repair, renovation, parking and future use. The cost of such contract, not to exceed Five Hundred Thousand Dollars ($500,000.00), shall be paid out of the Mississippi Veterans Memorial Stadium Operating Fund or from any funds available to the Department of Finance and Administration. Any allocated funds remaining unused after the completion and payment of the consultation contract shall be made available to the Department of Finance and Administration for repair, maintenance, security and any such other necessities as may be required to maintain safety, order and accessibility of the property. The Department of Finance and Administration is authorized to escalate funds and positions through July 1, 2009, to defray any costs associated with assuming the operations of the stadium. The Department of Finance and Administration may solicit RFP's, but shall not be authorized to contract for the management and operations of the stadium without further legislative action.

Laws of 2007, ch. 605, § 1, rewrote the section to contain subsections designated (1) through (9) and (11), but no (10). Laws of 2008, ch. 500, § 2, redesignated former (11) as present (10).

§ 55-23-9. Possession, operation, maintenance, and improvement of stadium by Jackson State University; existing contracts to be transferred to, acknowledged and complied with by Jackson State University; monies and revenues to be retained by Jackson State University; form for tickets.

Jackson State University shall acquire possession of, operate, maintain and improve the Mississippi Veterans Memorial Stadium until such time that Jackson State University relocates its home football games to another venue, in accordance with the provisions of this section and Sections 55-23-6 and 55-23-8. Jackson State University shall employ such agents and employees as may be required in connection therewith. All personnel of the Mississippi Veterans Memorial Stadium Commission shall be transferred from the Department of Finance and Administration to Jackson State University. Jackson State University may enter into contracts for the use of the stadium, and fix the amount of the compensation therefor, and collect the same when due.

Any personal service, management or other contracts of like nature entered into by the Department of Finance and Administration that are applicable to the Mississippi Veterans Memorial Stadium, in whole or in part, shall be transferred to, acknowledged and complied with by Jackson State University for the term of such contracts.

All monies and revenues, including the amusement tax imposed upon the sale of tickets for admission to the stadium, and all other events on stadium property designated for Jackson State University and all monies arising from other use of stadium property, including that realized from the sale of concessions, shall be retained by Jackson State University for the operation, maintenance and improvements to the Mississippi Veterans Memorial Stadium and for the support of intercollegiate athletics at such university. Jackson State University shall seek appropriate state funding through the Department of Finance and Administration for completion by the Bureau of

Building, Grounds and Real Property for all expenses incident to the necessary safety, repairs and renovations as determined by the Department of Finance and Administration to the Mississippi Veterans Memorial Stadium.

All tickets sold to an event conducted in the Mississippi Veterans Memorial Stadium shall have printed in an appropriate and prominent place thereon the words A.C. "Butch" Lambert Field.

SOURCES: Laws, 1960, ch. 390, § 4; Laws, 1989, ch. 548, § 2; Laws, 1990, ch. 312, § 3; Laws, 2001, ch. 602, § 3; Laws, 2011, ch. 426, § 3, eff from and after July 1, 2011.

Editor's Note — Laws of 1989, ch. 548, § 8, provides as follows:

"SECTION 8: Upon the effective date of this act, the Mississippi Veterans Memorial Stadium Commission shall transfer to the Mississippi Veterans Memorial Stadium Bond Sinking Fund an amount equal to Five Hundred Thousand Dollars ($500,000.00) from the Mississippi Veterans Memorial Stadium Operating Fund or from any other funds to the credit of the commission."

Section 55-23-6 provides that the terms "Department of Finance and Administration," "Mississippi Veterans Memorial Stadium Commission" and "commission," when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean "Jackson State University" or "University Medical Center," as applicable.

§ 55-23-11. Promulgation of rules and regulations governing use of lands and facilities.

The commission shall promulgate rules and regulations governing the use of the lands and facilities under its supervision. The commission may take any action authorized in Section 55-23-8, relating to the property described in such section.

SOURCES: Laws, 1960, ch. 390, § 5; Laws, 1989, ch. 548, § 2; Laws, 1991, ch. 487, § 1; Laws, 1996, ch. 552, § 1; Laws, 2001, ch. 602, § 4, eff from and after passage (approved Apr. 16, 2001.)

Editor's Note — Laws of 1996, ch. 552, § 5, provides as follows:

"SECTION 5. This act shall not apply to and shall not affect any development of property under the supervision of the Mississippi Veterans Memorial Stadium Commission that is conducted pursuant to an existing contract with the Mississippi Veterans Memorial Stadium Commission that has been approved by the Attorney General prior to the effective date of this act."

Section 55-23-6 provides that the terms "Department of Finance and Administration," "Mississippi Veterans Memorial Stadium Commission" and "commission," when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean "Jackson State University" or "University Medical Center," as applicable.

JUDICIAL DECISIONS

1. In general.

City lacked standing to bring declaratory judgment action, for determination that local zoning ordinances applied to state-owned land, in light of specifically promulgated legislation regarding use of said property. City of Jackson v. State, 676 So. 2d 257 (Miss. 1996).

§ 55-23-13. Maintenance of stadium driveways.

The State Highway Department is hereby authorized and empowered to maintain the driveways which lead to the Mississippi Veterans Memorial Stadium and are a part of the state-owned real property under the jurisdiction of the Mississippi Veterans Memorial Stadium Commission. In carrying out this section, the department is authorized to use its personnel, funds, equipment and machinery, and it may accept donations of funds from said commission, the City of Jackson, and Hinds County, which funds are hereby authorized to be expended, and other grants and bequests for carrying out the provisions of this section.

SOURCES: Laws, 1968, ch. 454, § 1; Laws, 1989, ch. 548, § 3, eff from and after passage (approved April 19, 1989).

Editor's Note — Section 55-23-6 provides that the terms "Department of Finance and Administration," "Mississippi Veterans Memorial Stadium Commission" and "commission," when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean "Jackson State University" or "University Medical Center," as applicable.

Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

§ 55-23-15. Use of state-owned lands for public parking facilities.

The Mississippi Veterans Memorial Stadium Commission is hereby authorized to utilize certain state-owned land in Hinds County bounded on the east by North State Street, on the north by Taylor Street, on the west by North West Street, and on the south by a street or driveway known as Stadium Drive as a public parking facility establishing reasonable rules and regulations connected with the operation of such a facility, including fees for the privilege of parking. The parking facilities shall not be extended any farther to the east than as the facilities existed on January 1, 1996. Further, the portion of the property described in this section, except the property west of the stadium between the stadium and North West Street, that was undeveloped as of January 1, 1996, shall remain undeveloped unless the Legislature enacts legislation approving the development of such property. The portion of the property described in this section that is west of the stadium between the stadium and North West Street may be developed to provide parking facilities for the Mississippi Department of Transportation offices located on North West Street. The Mississippi Veterans Memorial Stadium Commission may take any action authorized in Section 55-23-8 relating to the property described in such section.

The Mississippi Veterans Memorial Stadium Commission is authorized to lease such property to the Mississippi Transportation Commission for parking facilities for Department of Transportation offices, notwithstanding the time limitation on leases or other agreements provided in Section 55-23-8(9).

SOURCES: Laws, 1973, ch. 440, § 1; Laws, 1989, ch. 548, § 4; Laws, 1996, ch. 552, § 2; Laws, 2001, ch. 602, § 5; Laws, 2004, ch. 328, § 1, eff from and after passage (approved Apr. 12, 2004.)

Editor's Note — Laws of 1996, ch. 552, § 5, provides as follows:

"SECTION 5. This act shall not apply to and shall not affect any development of property under the supervision of the Mississippi Veterans Memorial Stadium Commission that is conducted pursuant to an existing contract with the Mississippi Veterans Memorial Stadium Commission that has been approved by the Attorney General prior to the effective date of this act."

This section contains a reference to a time limitation on leases or other agreements provided in Section 55-23-8(9). Laws of 2007, ch. 605, § 1, redesignated Section 55-23-8(9) as 55-23-8(8) and deleted the time limitation that previously was in that subsection.

Section 55-23-6 provides that the terms "Department of Finance and Administration," "Mississippi Veterans Memorial Stadium Commission" and "commission," when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean "Jackson State University" or "University Medical Center," as applicable.

Cross References — Penalties for violations of rules and regulations established under authority of this section, see §§ 55-23-17.

§ 55-23-17. Penalties.

The commission is authorized to establish penalties for tow-away or impoundment charges for individual or corporate owners of vehicles violating such rules and regulations; and such other general rules and regulations as may be reasonably necessary.

SOURCES: Laws, 1973, ch. 440, § 2; Laws, 1989, ch. 548, § 4, eff from and after passage (approved April 19, 1989).

Cross References — Establishment of rules and regulations, see § 55-23-15.

§ 55-23-19. Maintenance of parking facilities; exemption from fees.

Prior to July 1, 1989, the commission shall contract with the University of Mississippi Medical Center for provision by the medical center of funds in an amount reasonable and necessary to provide the following maintenance of parking facilities at the stadium:

(a) Adequate lighting;

(b) Routine care of the parking surface;

(c) Long-term resurfacing of any parking area utilized by medical center employees, students and patients; and

(d) Security.

In consideration of the funds provided by the medical center, the University of Mississippi Medical Center students, employees, patients and visitors, and all other state employees, will be exempt from payment of any fees imposed by the commission for the use of the parking facilities at the Mississippi Veterans Memorial Stadium when there are no special events being held on the stadium grounds.

SOURCES: Laws, 1973, ch. 440, § 3; Laws, 1989, ch. 548, § 4, eff from and after passage (approved April 19, 1989).

§ 55-23-21. Enlargement and renovation of stadium generally; public parking facilities.

The Building Commission is hereby authorized and empowered, in addition to all other powers and duties of such commission, to enlarge and renovate the Mississippi Veterans Memorial Stadium in order to provide for a modern stadium having a seating capacity of approximately sixty-two thousand seven hundred thirty-one (62,731) persons, such authority to be conditioned upon a contribution by Hinds County, Mississippi, to the Building Commission of a sum of One Million Dollars ($1,000,000.00) for such enlargement and renovation. The parking facilities shall not be extended any farther to the east than as the facilities existed on January 1, 1996. Further, the portion of the state-owned property on which the stadium and parking facilities are located, except the property west of the stadium between the stadium and North West Street, that was undeveloped as of January 1, 1996, shall remain undeveloped unless the Legislature enacts legislation approving the development of such property. The portion of the state-owned property on which the stadium is located that is west of the stadium between the stadium and North West Street may be developed to provide parking facilities for the Mississippi Department of Transportation offices located on North West Street. The Mississippi Veterans Memorial Stadium Commission may take any action authorized in Section 55-23-8, relating to the property described in such section.

SOURCES: Laws, 1979, ch. 360, § 1; Laws, 1989, ch. 548, § 5; Laws, 1996, ch. 552, § 3; Laws, 2001, ch. 602, § 6, eff from and after passage (approved Apr. 16, 2001.)

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the Governor's Office of General Services.

Laws of 1996, ch. 552, § 5, provides as follows:

"SECTION 5. This act shall not apply to and shall not affect any development of property under the supervision of the Mississippi Veterans Memorial Stadium Commission that is conducted pursuant to an existing contract with the Mississippi Veterans Memorial Stadium Commission that has been approved by the Attorney General prior to the effective date of this act."

Section 55-23-6 provides that the terms "Department of Finance and Administration," "Mississippi Veterans Memorial Stadium Commission" and "commission," when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean "Jackson State University" or "University Medical Center," as applicable.

Cross References — Contribution by Hinds County to enlargement and renovation of stadium, see § 55-23-23.

§ 55-23-23. Contribution by Hinds County to enlargement and renovation of stadium.

In keeping with the purposes of Sections 55-23-21 through 55-23-43, the Board of Supervisors of Hinds County, Mississippi, is authorized and empowered, in its discretion, to transfer and deliver to the Building Commission a sum of One Million Dollars ($1,000,000.00) out of any funds on hand or received by Hinds County.

When such funds are received by the Building Commission, they shall be deposited at interest in banks located in Hinds County according to the same formula used for the investment of excess state funds, and all interest accruing as a result thereof shall be returned to the Board of Supervisors of Hinds County.

SOURCES: Laws, 1979, ch. 360, § 2; Laws, 1989, ch. 548, § 5, eff from and after passage (approved April 19, 1989).

Editor's Note — Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the Governor's Office of General Services.

Cross References — Repayment of contribution by Hinds County, see § 55-23-35.

Funds appropriated for enlargement and renovation of the Mississippi Veterans Memorial Stadium to be deposited in Mississippi Memorial Stadium Construction Fund except funds contributed by Hinds County, see § 55-23-41.

§ 55-23-25. Issuance of bonds for enlargement and renovation of stadium; amount of bond issue; payment of principal and interest on bonds; details and execution of bonds.

Upon receipt of a sum of One Million Dollars ($1,000,000.00) from the Board of Supervisors of Hinds County, the Building Commission is authorized at one (1) time or from time to time to petition by resolution to the State Bond Commission for the issuance of negotiable bonds of the State of Mississippi by the State Bond Commission to provide funds for the purpose of paying all or any part of the cost of enlarging and renovating the Mississippi Veterans Memorial Stadium in accordance with the provisions of Sections 55-23-21 through 55-23-43. The amounts of bonds issued shall not exceed an aggregate sum of Three Million Dollars ($3,000,000.00).

The principal of and the interest on such bonds shall be payable from the Mississippi Veterans Memorial Stadium Bond Sinking Fund, hereby created in the State Treasury, in the manner hereinafter set forth. Such bonds shall bear date or dates, be in such denomination or denominations, bear interest at such rate or rates, be payable at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times, be redeemable prior to maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by resolution of the State Bond Commission. Provided, however, that such bonds shall mature or otherwise be retired in annual installments beginning not more than five (5) years from date thereof and extending not more than twenty-five (25) years from date thereof. Such bonds shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the State Bond Commission shall be affixed thereto, attested by the Secretary of the State Bond Commission. The interest coupons to be attached to such bonds may be executed by the facsimile signatures of said officers. Whenever any such bonds shall have been signed by the officials herein designated to sign the bonds, who were in the office at the time of such signing but who may have ceased to be such officers prior to the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until the delivery of the same to the purchaser, or had been in office on the date such bonds may bear.

SOURCES: Laws, 1979, ch. 360, § 3; Laws, 1989, ch. 548, § 5, eff from and after passage (approved April 19, 1989).

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the Governor's Office of General Services.

Laws of 1989, ch. 548, § 8, provides as follows:

"SECTION 5. Upon the effective date of this act, the Mississippi Veterans Memorial Stadium Commission shall transfer to the Mississippi Veterans Memorial Stadium Bond Sinking Fund an amount equal to Five Hundred Thousand Dollars ($500,000.00) from the Mississippi Veterans Memorial Stadium Operating Fund or from any other funds to the credit of the commission."

Cross References — Proceedings for issuance and validation of bonds, see § 55-23-39.

§ 55-23-27. Negotiability of bonds; exemption from taxation.

All bonds and interest coupons issued under the provisions of Sections 55-23-21 through 55-23-43 shall be and are hereby declared to have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code and in exercising the powers granted by Sections 55-23-21 through 55-23-43, the board and/or State Bond Commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code. Such bonds and income therefrom shall be exempt from all taxation within the State of Mississippi.

SOURCES: Laws, 1979, ch. 360, § 4; Laws, 1989, ch. 548, § 5, eff from and after passage (approved April 19, 1989).

Cross References — Negotiable instruments under the Mississippi Uniform Commercial Code, see §§ 75-3-101 et seq.

§ 55-23-29. Sale of bonds; interest on bonds; redemption of bonds.

The State Bond Commission shall sell such bonds on sealed bids at public sale, and for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale shall be made at a price less than par plus accrued interest to date of delivery of the bonds to the purchaser. All bonds shall bear interest at such rate or rates not exceeding seven percent (7%) per annum. All interest accruing on such bonds so issued shall be payable semiannually or annually.

No interest payment due on any bond shall be evidenced by more than one (1) coupon and supplemental coupons will not be permitted; the difference between the highest rate of interest specified for any bond issue shall not exceed the lowest rate of interest specified for the same bond issue by more than one and one-fourth percent (1-¼ %).

Each interest rate specified in any bid must be in a multiple of one-eighth of one percent (⅛ of 1%) or one-tenth of one percent (⅒ of 1%) and a zero rate of interest cannot be named.

Notice of the sale of any such bonds shall be published at least one (1) time, the first of which shall be made not less than ten (10) days prior to the date of sale, and shall be so published in one or more newspapers having a general circulation in the City of Jackson and in one or more other newspapers or financial journals with a large national circulation, to be selected by the State Bond Commission.

The State Bond Commission, when issuing any bonds under the authority of Sections 55-23-21 through 55-23-43, shall provide that bonds maturing eleven (11) or more years after the date of the issuance of such bonds may, at the option of the State of Mississippi, be called in for payment and redemption in reverse numerical order at the call price named therein and accrued interest, or on the tenth anniversary of the date of issue, or on any interest payment date thereafter prior to maturity.

SOURCES: Laws, 1979, ch. 360, § 5; Laws, 1989, ch. 548, § 5, eff from and after passage (approved April 19, 1989).

§ 55-23-31. Security for payment of bonds.

The bonds issued under the provisions of Sections 55-23-21 through 55-23-43 shall be payable from the Mississippi Veterans Memorial Stadium Bond Sinking Fund and shall be the general obligations of the State of Mississippi and backed by the full faith and credit of the State of Mississippi, and if the funds available in the Mississippi Veterans Memorial Stadium Bond Sinking Fund be insufficient to pay the principal of and the interest on such bonds as they become due, then the deficiency shall be paid by the State Treasurer from any funds in the State Treasury not otherwise appropriated. All such bonds shall contain recitals on their faces substantially covering the foregoing provisions of this section.

SOURCES: Laws, 1979, ch. 360, § 6; Laws, 1989, ch. 548, § 5, eff from and after passage (approved April 19, 1989).

§ 55-23-33. Surcharge on stadium ticket prices for payment of bonds; use of portion of amusement sales tax for payment of bonds; university share of stadium revenues.

(1) An additional charge of Fifty Cents (50¢) per ticket is hereby imposed upon every ticket which is sold (a) to an event conducted in the Mississippi Veterans Memorial Stadium in which there participates any team of a university which is a member of the National Collegiate Athletic Association with the exception of a university located in Hinds County, in which case an additional charge of Twenty-five Cents (25¢) per ticket shall be imposed, and (b) to any event in which there participates a professional team or in which the entertainers, performers or other participants are professionals. The funds derived from this additional charge shall be paid by the Stadium Commission to the State Treasurer to be deposited in the Mississippi Memorial Stadium Fund and are specifically reserved and dedicated for the payment of the principal of and the interest on bonds issued under the provisions of Sections 55-23-21 through 55-23-43 to enlarge and renovate the Mississippi Memorial Stadium. Upon a determination by the State Treasurer, the additional charge provided by this subsection may cease to be imposed when the other revenue pledged out of the Mississippi Memorial Stadium Fund to retire the bonds is at least one and one tenth (1.1) times the annual debt service plus the obligation to Hinds County or when the fund contains an amount sufficient to retire the amount of bonds then outstanding plus the obligation to Hinds County. If the charge ceases to be imposed as hereinbefore provided and revenues pledged out of the Mississippi Memorial Stadium Fund to retire the bonds fall below one (1.0) times the annual debt service plus the obligation to Hinds County, then at that time the State Treasurer shall notify the Stadium Commission and the charge shall be restored.

(2) Forty-two percent (42%) of the tax levied pursuant to Section 27-65-22, Mississippi Code of 1972, on gross revenue derived from the sale of admission to events conducted in the Mississippi Veterans Memorial Stadium, which is deposited in the Mississippi Memorial Stadium Fund, is hereby specifically reserved and dedicated for the payment of the principal of and the interest on bonds issued under the provisions of Sections 55-23-21 through 55-23-43 and repayment of the contribution of Hinds County to enlarge and renovate the Mississippi Veterans Memorial Stadium.

(3) It is the intent of the Legislature that a university's share in revenue derived from events conducted at Mississippi Veterans Memorial Stadium not be reduced as a result of the enactment of this section; and, to that end, any proceeds derived from an event at the Mississippi Veterans Memorial Stadium to which a university is entitled shall not be less than that share to which it would otherwise have been entitled prior to the effective date of Sections 55-23-21 through 55-23-43.

(4) Notwithstanding the provisions of subsections (1) and (2) of this section, on and after April 19, 1989, the imposition and deposit of the additional per ticket charge described in subsection (1) of this section and the diversion of the portion of the tax described in subsection (2) of this section shall each be suspended so long as not less than thirty (30) days prior to the first day of each fiscal year of the State of Mississippi either (a) the Legislature has theretofore appropriated for deposit to the Mississippi Veterans Memorial Bond Sinking Fund an amount of moneys from any source sufficient to fully pay in a timely manner all of the principal and interest scheduled to become due in such fiscal year on all bonds theretofore issued and then outstanding under the provisions of Sections 55-23-21 through 55-23-43, plus an amount sufficient to pay all then overdue and unpaid installments of principal and interest on such bonds, if any, or (b) the amount on deposit in the Mississippi Veterans Memorial Stadium Bond Sinking Fund shall be sufficient to fully pay in a timely manner all of the principal and interest scheduled to become due prior to such fiscal year on all bonds theretofore issued and then outstanding under the provisions of Sections 55-23-21 through 55-23-43, plus all of the principal and interest scheduled to become due in such fiscal year on all such bonds, plus an amount sufficient to pay all then overdue and unpaid installments of principal and interest on such bonds, if any. Whenever the State Treasurer shall determine that the conditions of the aforesaid suspensions have not or will not be satisfied as provided in the immediately preceding sentence, the State Treasurer shall notify all appropriate state officials of the same and the imposition and deposit of said additional per ticket charge under subsection (1) of this section and the diversion of said portion of the tax under subsection (2) of this section, each to the Mississippi Veterans Memorial Stadium Bond Sinking Fund, shall be automatically and immediately restored.

SOURCES: Laws, 1979, ch. 360, § 7; Laws, 1985, ch. 456; Laws, 1989, ch. 548, § 5, eff from and after passage (approved April 19, 1989).

Editor's Note — Section 55-23-9 provides that any reference in the laws of Mississippi to the "Mississippi Memorial Stadium Fund" or the "Mississippi Veterans Memorial Stadium Fund" shall mean the "Mississippi Veterans Memorial Stadium Operating Fund" unless the context clearly indicates otherwise.

§ 55-23-35. Repayment of contribution of Hinds County.

(1) It is the intent of the Legislature that Hinds County, Mississippi, be fully reimbursed for the amount of money contributed by it to the enlargement and renovation of Mississippi Veterans Memorial Stadium. To that end, the State Treasurer shall pay to the county out of any excess in the Mississippi Veterans Memorial Stadium Bond Sinking Fund not necessary to pay the debt service on bonds issued pursuant to Sections 55-23-21 through 55-23-43 an amount not to exceed Fifty Thousand Dollars ($50,000.00) per year or, in his discretion, a greater sum which will expedite such repayment provided the revenue paid into the fund exceeds that projected at the time of passage of Sections 55-23-21 through 55-23-43; provided, however, the percentage of

money paid Hinds County shall not exceed the percentage of the state obligation which has been paid. In the event the state refunds bonds issued under Sections 55-23-21 through 55-23-43, the obligation created hereunder to Hinds County shall not be construed to impair such refunding issue but shall be a continuing subordinate obligation of the state until its repayment is effected.

(2) Notwithstanding the provisions of subsection (1) to the contrary, the Board of Supervisors of Hinds County may forgive and cancel all or any portion of such obligation of the commission or the State of Mississippi incurred pursuant to Sections 55-23-21 through 55-23-43, by resolution duly entered at any regular meeting to be held, or previously held, in calendar year 1989. However, if the Mississippi Veterans Memorial Stadium is sold, or any interest in same is permanently conveyed by the State of Mississippi, then Hinds County shall be paid all sums which were previously forgiven or cancelled by Hinds County in accordance with subsection (1) of this section.

SOURCES: Laws, 1979, ch. 360, § 8; Laws, 1989, ch. 548, § 5, eff from and after passage (approved April 19, 1989).

§ 55-23-37. Issuance of warrants for payment of bonds.

The State Treasurer is hereby authorized, without further process of law, to certify to the State Fiscal Management Board the necessity for warrants, and the State Fiscal Management Board is hereby authorized and directed to issue such warrants payable out of the Mississippi Veterans Memorial Stadium Bond Sinking Fund authorized by Sections 55-23-21 through 55-23-43 for such purpose, in such amounts as may be necessary to pay when due the principal of and interest on all bonds issued under the provisions of Sections 55-23-21 through 55-23-43; and the State Treasurer shall forward the necessary amount to the designated place or places of payment of said bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

SOURCES: Laws, 1979, ch. 360, § 9; Laws, 1989, ch. 548, § 5, eff from and after passage (approved April 19, 1989).

Editor's Note — Section 27-104-1 provides that the term "State Fiscal Management Board" shall mean the "Department of Finance and Administration."

§ 55-23-39. Proceedings for issuance of bonds; validation of bonds.

Such general obligation bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions and things which are specified or required by Sections 55-23-21 through 55-23-43. Any resolution providing for the issuance of general obligation bonds under the provisions of Sections 55-23-21 through 55-23-43 shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular, special or adjourned meeting of the State Bond Commission by a majority of its members.

The bonds authorized under the authority of Sections 55-23-21 through 55-23-43 may be validated in the Chancery Court of Hinds County, Mississippi, in the manner and with the force and effect provided now or hereafter by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The necessary papers for such validation proceedings shall be transmitted to the State Bond Commission, and the required notice shall be published in a newspaper published in the City of Jackson, Mississippi.

SOURCES: Laws, 1979, ch. 360, § 10; Laws, 1989, ch. 548, § 5, eff from and after passage (approved April 19, 1989).

§ 55-23-41. Mississippi Memorial Stadium Construction Fund; use of Hinds County funds.

The proceeds of the bonds authorized in Sections 55-23-21 through 55-23-43 and funds appropriated for the enlargement and renovation of the Mississippi Veterans Memorial Stadium, including the funds to be supplied by Hinds County and also including funds from any and all other sources set aside for such enlargement and renovation by the Building Commission shall be used for the purpose of enlarging and renovating all physical components which make up the Mississippi Veterans Memorial Stadium and, except for the funds contributed by Hinds County, shall be deposited in the Mississippi Memorial Stadium Construction Fund, hereby created in the State Treasury. The funds contributed by Hinds County shall be deposited as provided in Section 55-23-23. To that end the commission is hereby authorized and empowered to make and enter into such contracts and execute such instruments containing such reasonably appropriate terms and conditions as, in its discretion, it may deem necessary, proper or advisable for the purpose of carrying out the terms of Sections 55-23-21 through 55-23-43, including the acceptance of that proportion of the cost of improvements required by the terms of Sections 55-23-21 through 55-23-43 to be contributed by Hinds County. Any funds received by the Mississippi Veterans Memorial Stadium Commission under Section 55-23-8, may be used for any purpose authorized in this section or Section 55-23-8, or both.

SOURCES: Laws, 1979, ch. 360, § 11; Laws, 1989, ch. 548, § 5; Laws, 2001, ch. 602, § 7, eff from and after passage (approved Apr. 16, 2001.)

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the Governor's Office of General Services.

Section 55-23-6 provides that the terms "Department of Finance and Administration," "Mississippi Veterans Memorial Stadium Commission" and "commission," when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean "Jackson State University" or "University Medical Center," as applicable.

§ 55-23-43. Employment of architects, engineers, etc.; letting of contracts; payment of stadium enlargement and renovation expenses pursuant to Sections 55-23-21 through 55-23-43.

The Building Commission may employ competent architects, engineers and other qualified agents to prepare plans, specifications and such other data as may be necessary to enable it to carry out the purposes of Sections 55-23-21 through 55-23-43 in a manner consistent with sound construction principles. When the plans and specifications have been approved and accepted by the Building Commission, contracts for the various phases of construction shall then be let by the Building Commission in the manner provided by law to competent and responsible firms or individuals whose work shall proceed under the constant inspection of a reliable and competent inspector to be furnished for that purpose by the State Building Commission. All expenses incurred in the enlargement and renovation under the provisions of Sections 55-23-21 through 55-23-43 shall be paid from the Mississippi Memorial Stadium Construction Fund created herein. The Mississippi Veterans Memorial Stadium Commission may take any action authorized in Section 55-23-8, relating to the property described in such section.

SOURCES: Laws, 1979, ch. 360, § 12; Laws, 1989, ch. 548, § 5; Laws, 2001, ch. 602, § 8, eff from and after passage (approved Apr. 16, 2001.)

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the Governor's Office of General Services.

Section 55-23-6 provides that the terms "Department of Finance and Administration," "Mississippi Veterans Memorial Stadium Commission" and "commission," when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean "Jackson State University" or "University Medical Center," as applicable.

§ 55-23-45. Authorization of repair, remodeling and enlargement of stadium; public parking facilities.

The Building Commission is hereby authorized and empowered to repair and remodel the Mississippi Veterans Memorial Stadium and, notwithstanding the seating capacity limitations set out in Sections 55-23-21 through 55-23-43, to enlarge said stadium as funds become available for said purpose. The parking facilities shall not be extended any farther to the east than as the facilities existed on January 1, 1996. Further, the portion of the state-owned property on which the stadium and parking facilities are located, except the property west of the stadium between the stadium and North West Street, that was undeveloped as of January 1, 1996, shall remain undeveloped unless the Legislature enacts legislation approving the development of such property. The portion of state-owned property on which the stadium is located that is west of the stadium between the stadium and North West Street may be developed to provide parking facilities for the Mississippi Department of Transportation offices located on North West Street. The Mississippi Veterans Memorial Stadium Commission may take any action authorized in Section 55-23-8, relating to the property described in such section.

SOURCES: Laws, 1974, ch. 534, § 1; Laws, 1979, ch. 360, § 13; Laws, 1989, ch. 548, § 5; Laws, 1996, ch. 552, § 4; Laws, 2001, ch. 602, § 9, eff from and after passage (approved Apr. 16, 2001.)

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Section 31-11-1 provides that wherever the term "state building commission" or "building commission" appears in the laws of the state of Mississippi, it shall be construed to mean the Governor's Office of General Services.

Section 55-23-6 provides that the terms "Department of Finance and Administration," "Mississippi Veterans Memorial Stadium Commission" and "commission," when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean "Jackson State University" or "University Medical Center," as applicable.

Laws of 1996, ch. 552, § 5, provides as follows:

"SECTION 5. This act shall not apply to and shall not affect any development of property under the supervision of the Mississippi Veterans Memorial Stadium Commission that is conducted pursuant to an existing contract with the Mississippi Veterans Memorial Stadium Commission that has been approved by the Attorney General prior to the effective date of this act."

§ 55-23-47. Provisions governing repair, remodeling and enlargement of stadium.

The repairing, remodeling and enlarging of the Mississippi Memorial Stadium shall be carried on throughout in accordance with the provisions of Section 12, Chapter 390, Laws of 1960.

SOURCES: Laws, 1974, ch. 534, § 2; Laws, 1979, ch. 360, § 13; Laws, 1989, ch. 548, § 5, eff from and after passage (approved April 19, 1989).

§ 55-23-49. Funding of repair, remodeling and enlargement of stadium.

The cost of repairing, remodeling and enlarging the Mississippi Veterans Memorial Stadium shall be paid from any funds appropriated by the Legislature for such purposes, or from the sale of revenue bonds or general obligation bonds issued for this purpose, as may be hereafter authorized by the Legislature. The costs of construction of improvements made under Section 55-23-8, may be paid from any funds provided under this section or Section 55-23-8, or both.

SOURCES: Laws, 1974, ch. 534, § 3; Laws, 1979, ch. 360, § 13; Laws, 1989, ch. 548, § 5; Laws, 2001, ch. 602, § 10, eff from and after passage (approved Apr. 16, 2001.)

§ 55-23-51. Designation of athletic field as "A.C. (Butch) Lambert Field."

The athletic field at the Mississippi Veterans Memorial Stadium in Jackson, Mississippi, shall be named the "A.C. (Butch) Lambert Field." The Mississippi Veterans Memorial Stadium Commission shall erect appropriate signs and markers at the stadium to indicate the name of the field.

SOURCES: Laws, 1985, ch. 301, § 1; Laws, 1989, ch. 548, § 6, eff from and after passage (approved April 19, 1989).

Editor's Note — Section 55-23-6 provides that the terms "Department of Finance and Administration," "Mississippi Veterans Memorial Stadium Commission" and "commission," when referring to the Mississippi Veterans Memorial Stadium Commission, shall mean "Jackson State University" or "University Medical Center," as applicable.

§ 55-23-53. Scheduling of football games at stadium.

Prior to January 1, 1990, the Board of Trustees of State Institutions of Higher Learning shall develop a proposal to encourage scheduling of football games by Mississippi universities in the Mississippi Veterans Memorial Stadium, which scheduling will acknowledge the obligation of such universities to support the enlarged stadium, the expansion of which was encouraged by such universities.

SOURCES: Laws, 1989, ch. 548, § 9, eff from and after passage (approved April 19, 1989).

Cross References — Board of Trustees of State Institutions of Higher learning equally, see §§ 37-101-1 through 37-101-30.

CHAPTER 24

Mississippi Coast Coliseum Commission

Sec.
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§ 55-24-1. Mississippi Coast Coliseum Commission created.

There is created a Mississippi Coast Coliseum Commission to be composed of seven (7) members to be constituted and appointed as provided in Section 55-24-3. For the purposes of this chapter and unless otherwise required by the context, the word "commission" shall mean the Mississippi Coast Coliseum Commission.

SOURCES: Laws, 1968, ch. 530, § 1; Laws, 1972, ch. 435, § 1; Laws, 2008, ch. 534, § 1, eff from and after July 1, 2008.

Joint Legislative Committee Note — This section was codified in 1998 as Section 55-24-1 of the Mississippi Code of 1972 pursuant to the direction of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation at its meeting on May 20, 1998.

Editor's Note — Laws of 1968, ch. 530, § 12, eff from and after passage (approved August 8, 1968), as amended by Laws of 1972, ch. 435, § 1, eff from and after passage (approved May 2, 1972), provides:

"SECTION 12. If any word, line, sentence or part of this act should hereafter be declared unconstitutional by any court, such decision shall not be construed so as to invalidate the remainder hereof."

§ 55-24-3. Terms of office.

(1) The Mississippi Coast Coliseum Commission consisting of five (5) members shall be appointed, qualify and take office within thirty (30) days of August 8, 1968, and the initial appointments to the commission shall be for the following terms: One (1) member of the commission shall be appointed by the Harrison County Board of Supervisors for a term of one (1) year; one (1) member of the commission shall be appointed by the Harrison County Municipal Association, comprised of the mayors of Biloxi, D'Iberville, Gulfport,

Long Beach and Pass Christian, Mississippi, for a term of two (2) years; and three (3) members of the commission who shall be appointed by the Governor of the State of Mississippi for terms of three (3), four (4), and five (5) years, respectively. From and after July 1, 2008, one (1) additional member shall be appointed by the Board of Supervisors of Harrison County. All succeeding appointments shall be for a term of four (4) years from the date of the expiration of the initial appointment, and all members of such commission shall hold office for a term of four (4) years from and after the date of their appointment and qualification, and until their successor or successors shall be appointed and qualify. From and after July 1, 2008, the Executive Director of the Harrison County Tourism Commission shall be an ex officio nonvoting member of the commission.

(2) Any member may be disqualified and removed from office for any one of the following reasons:

(a) Conviction of a felony;

(b) Failure to attend three (3) consecutive meetings without just cause.

(3) If a commission member is removed for one of the above reasons, the vacancy shall be filled in the manner prescribed in this section.

(4) Vacancies which shall occur shall be filled in the same manner as the original appointments and shall be made for the unexpired term. Any person who is duly qualified on May 2, 1972, shall continue to serve for the duration of the term for which he was appointed.

(5) The five (5) members of the commission who are in office on July 1, 2008, shall continue to serve until their terms expire. In making appointments to the commission, the appointing authorities should consider persons who are community leaders and/or are representative of fields such as the hotel/motel business, large business, small business, the food and beverage industry and large facility operation or commercial real estate.

SOURCES: Laws, 1968, ch. 530, § 2; Laws, 1972, ch. 435, § 1; Laws, 2008, ch. 534, § 2, eff from and after July 1, 2008.

Joint Legislative Committee Note — This section was codified in 1998 as Section 55-24-3 of the Mississippi Code of 1972 pursuant to the direction of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation at its meeting on May 20, 1998.

Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in the last sentence of (4). The reference to "the effective date of this act" was changed to "May 2, 1972." The Joint Committee ratified the correction at its August 5, 2008, meeting.

Editor's Note — Laws of 1968, ch. 530, § 12, eff from and after passage (approved August 8, 1968), as amended by Laws of 1972, ch. 435, § 1, eff from and after passage (approved May 2, 1972), provides:

"SECTION 12. If any word, line, sentence or part of this act should hereafter be declared unconstitutional by any court, such decision shall not be construed so as to invalidate the remainder hereof."

§ 55-24-5. Qualification, oath and bond.

Before entering upon the duties of the office, each appointed member of the Mississippi Coast Coliseum Commission shall take and subscribe to the oath of office required by Section 268 of the Constitution of the State of Mississippi, and shall enter into and give bond to be approved by the Secretary of State of the State of Mississippi in the sum of Fifty Thousand Dollars ($50,000.00) conditioned upon the faithful performance of his duties. Such bond shall be payable to the State of Mississippi, and in the event of a breach thereof, suit may be brought by the State of Mississippi for the benefit of the Mississippi Coast Coliseum Commission.

SOURCES: Laws, 1968, ch. 530, § 3; Laws, 1972, ch. 435, § 1, eff from and after passage (approved May 2, 1972).

Joint Legislative Committee Note — This section was codified in 1998 as Section 55-24-5 of the Mississippi Code of 1972 pursuant to the direction of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation at its meeting on May 20, 1998.

Editor's Note — Laws of 1968, ch. 530, § 12, eff from and after passage (approved August 8, 1968), as amended by Laws of 1972, ch. 435, § 1, eff from and after passage (approved May 2, 1972), provides:

"SECTION 12. If any word, line, sentence or part of this act should hereafter be declared unconstitutional by any court, such decision shall not be construed so as to invalidate the remainder hereof."

§ 55-24-7. Organization; meetings; quorum; office supplies.

When the members of the Mississippi Coast Coliseum Commission shall have been appointed and qualified as set forth herein, they shall meet at quarters provided for them by Harrison County after giving not less than ten (10) days' notice of the time and place of such meeting by registered mail, postage prepaid, directed to each appointed member of such commission at his regular address given to the Secretary of State at the time of his qualification, and posting bond. At such meeting a quorum shall be three (3) commissioners, and a majority of those members attending shall elect a president and secretary, both of whom shall be members of said commission, and adopt such rules and regulations as may govern the time and place for holding subsequent meetings, regular and special, and other rules and regulations not inconsistent with the provisions of this chapter.

The commission is further authorized to obtain office equipment, supplies, furniture, furnishings, equipment, and other facilities necessary to administer the affairs and duties of the commission.

From and after July 1, 2008, the quorum required for commission meetings shall be five (5) members.

SOURCES: Laws, 1968, ch. 530, § 4; Laws, 1972, ch. 435, § 1; Laws, 2008, ch. 534, § 3, eff from and after July 1, 2008.

Joint Legislative Committee Note — This section was codified in 1998 as Section 55-24-7 of the Mississippi Code of 1972 pursuant to the direction of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation at its meeting on May 20, 1998.

Editor's Note — Laws of 1968, ch. 530, § 12, eff from and after passage (approved August 8, 1968), as amended by Laws of 1972, ch. 435, § 1, eff from and after passage (approved May 2, 1972), provides:

"SECTION 12. If any word, line, sentence or part of this act should hereafter be declared unconstitutional by any court, such decision shall not be construed so as to invalidate the remainder hereof."

§ 55-24-9. Powers of the Mississippi Coast Coliseum Commission.

The Mississippi Coast Coliseum Commission, a political subdivision of the State of Mississippi, shall have jurisdiction and authority over all matters relating to establishing, promoting, developing, locating, constructing, maintaining and operating a multipurpose coliseum and related facilities within Harrison County, Mississippi. Multipurpose coliseum and related facilities shall include a multipurpose coliseum or arena facility, a convention center and/or a fine arts center. Such commission is authorized to acquire lands by purchase, gift or the exercise of eminent domain as provided by Section 11-27-1 et seq., above or below mean high-water mark. The acquisition of lands below mean high-water mark by the commission for the purposes authorized herein are declared to be in all respects for the benefit of the people of the State of Mississippi, a public purpose, and an essential governmental function in the exercise of the powers conferred upon them by said act.

Said commission, acting on behalf of the State of Mississippi, shall have the right to reclaim submerged lands for the purpose of constructing a coliseum and related facilities thereon, and to acquire in its name on behalf of the state any estate or property right therein or in other land necessary to the purpose of this chapter by purchase, gift, deed or other transfer. Title to all oil, gas and other minerals in, on or under any lands, title to which is held by the State of Mississippi on August 8, 1968, shall be reserved unto the State of Mississippi, and all income derived from the sale or lease of such minerals shall inure to the benefit of the State of Mississippi for such purposes as the Legislature may direct. Provided, that prior to utilization of lands in which title vests in the State of Mississippi, a description of such land shall be submitted to the Department of Finance and Administration and said utilization shall not be commenced until or unless approval of such utilization is given by the Department of Finance and Administration.

The commission is authorized to own, furnish, equip and operate said coliseum and all facilities and equipment necessary or useful in the operation of said coliseum, to receive and expend, subject to the provisions of this chapter, revenues from any source, including the operation of the said coliseum and related facilities, and to do all other things necessary to carry out the purposes of this chapter. It is the intent of the Legislature that no General Fund appropriations shall ever be made for the operation and maintenance of such facilities operated under the provisions of this chapter or for the cost of administration.

The commission is authorized and directed to adopt uniform rules and regulations regarding the granting of franchises, licenses or leases, or the use, operation and maintenance of the premises, and to publish the same for three (3) consecutive weeks in a newspaper having a general circulation in the county and fixing a time and place not more than ten (10) days after the last publication to receive and hear objections to such rules and regulations. In addition, a copy of such rules and regulations or any revisions or amendments thereto shall be filed with the Clerk of the Harrison County Board of Supervisors and with the Director of the Department of Finance and Administration of the State of Mississippi. The commission may revise or amend such rules and regulations but such revisions shall be uniform and shall not be adopted unless the commission shall publish the proposed change three (3) consecutive weeks in a paper having a general circulation in the county, and fixing a time and place not more than ten (10) days after the last publication to receive and hear objections to such changes.

Before granting any franchise, license or lease, the commission shall first publish its intent to grant such franchise, license or lease and the conditions upon which same shall be granted. Such publication shall be made for three (3) consecutive weeks in a newspaper having a general circulation in Harrison County. All bids received shall be sealed, and shall be opened at a date, time and place set forth in the publications, which date shall not be less than five (5) days nor more than ten (10) days after the last publication.

Unless the commission shall find that the successful bidder cannot demonstrate financial responsibility to comply with the terms and conditions of the franchise, license or lease, or cannot perform the services required thereunder, it shall, subject to the limitations set forth under this chapter, grant said franchise, license or lease to the bidder whose proposal shall be in the best financial interest of the commission. Provided, however, should the apparent successful bid be rejected for the reasons hereinabove set out, such rejection shall not be effective unless such decision is concurred in by the Department of Finance and Administration.

No such franchise, license or lease shall exceed a term of five (5) years but may, at the option of the commission, be extended under previously agreed and bid terms and conditions for a period not to exceed five (5) additional years.

Any person aggrieved by any action of the commission may appeal to the Circuit Court of Harrison County in the manner provided for appeals from orders of the board of supervisors.

The commission is granted the power to sue and be sued in its own name, and the commission is hereby authorized to take liability insurance on the operation of said facilities in an amount equal to the extent of its liability for claims or causes of action arising from acts or omissions as provided in Section 11-46-15, Mississippi Code of 1972; provided, however, that immunity from suit is only waived to the extent of such liability insurance carried, and a judgment creditor shall have recourse only to the proceeds or right to proceeds of such liability insurance. No attempt shall be made in the trial of any case to suggest the existence of any insurance which covers in whole or in part any judgment or award rendered in favor of a claimant, but if the verdict rendered by the jury exceeds the limit of applicable insurance, the court on motion shall reduce the amount of said judgment to a sum equal to the applicable limit stated in the insurance policy.

The commission is granted the power to invest funds credited to the Mississippi Coast Coliseum Commission Operating Fund. The commission is vested with authority to designate depositories of its funds, and to deposit said funds in interest-bearing accounts. Provided, however, all funds in excess of ninety (90) days' operating expenses, to the extent practicable, shall be invested in Treasury bills or in interest-bearing accounts or approved securities to include, but not limited to, U.S. Treasury bills and U.S. Treasury notes and bonds, federal agency securities or mortgage-backed securities guaranteed as to repayment of principal by said government or an agency of said government, certificates of deposit fully covered by insurance administered by the Federal Deposit Insurance Corporation or covered by pledged securities, repurchase agreements and short-term money market funds invested in United States Government and United States Government agencies.

The commission is authorized to contract with any agency of the United States or the State of Mississippi for a loan or grant, and to give such agency any assurances of compliance with federal or state laws which are not in conflict with the laws of the State of Mississippi. It is the intent and purpose of this chapter that the Coliseum Commission cooperate with agencies administering the National Seashore Act of 1970.

Whenever any real or personal property belonging to the commission shall cease to be used or needed for the commission's purposes, the commission may sell, exchange or lease the property on such terms as the commission may elect. No lease of surplus real property may exceed a term of ninety-nine (99) years. The deed of conveyance in such transactions shall be executed in the name of the commission by its commissioners pursuant to their order issued on the minutes of their meetings. In any sale, exchange or lease of real property, the commission shall retain all mineral rights that it owns, together with the right of ingress and egress to remove same. Before any sale, exchange or lease is made, the commissioners shall publish at least once each week for three (3) consecutive weeks, in a public newspaper of Harrison County, Mississippi, the intention to sell, exchange or lease, as the case may be, the real or personal property and to accept sealed competitive bids for the sale, exchange or lease. The commissioners shall thereafter accept bids for the sale, exchange or lease and shall sell, exchange or lease the property to the highest bidder in the manner provided by law. However, whenever the commissioners shall find and determine, by resolution duly and lawfully adopted and spread upon its minutes: (a) that any commission owned real property is no longer needed for commission purposes and is not to be used in the operation of a multipurpose coliseum and related facilities, (b) that the sale, exchange or lease of such property in the manner otherwise provided for herein is not necessary or desirable for the financial welfare of a multipurpose coliseum and related facilities, and (c) that the use of such property for the purpose for which it is to be sold, exchanged or leased will promote and foster the development and improvement of the coliseum and its related facilities, the commissioners shall be authorized and empowered in their discretion to sell, exchange or lease the property without having to advertise for and accept competitive bids. In any case in which the commission proposes to sell or exchange real property under the provisions of this section without advertising for and accepting competitive bids, consideration for the sale or exchange of the real property shall be not less than the average of the fair market price for the property as determined by three (3) professional property appraisers selected by the commission and approved by the purchaser or devisee. Appraisal fees shall be shared equally by the commission and the purchaser or devisee.

The enumeration of any specific rights and powers contained herein or elsewhere in this chapter where followed by general powers shall not be construed in the restrictive sense but rather in as broad and comprehensive sense as possible to effectuate the purposes and intent of this chapter.

SOURCES: Laws, 1968, ch. 530, § 5; Laws, 1972, ch. 435, § 1; Laws, 1975, ch. 445, § 1; Laws, 1977, ch. 456, § 1; Laws, 1979, ch. 467, § 1; Laws, 1990, ch. 899, § 1; Laws, 1991, ch. 825, § 1; Laws, 2005, ch. 482, § 1; Laws, 2008, ch. 310, § 1, eff from and after passage (approved Mar. 17, 2008.)

Joint Legislative Committee Note — This section was codified in 1998 as Section 55-24-9 of the Mississippi Code of 1972 pursuant to the direction of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation at its meeting on May 20, 1998.

Editor's Note — Laws of 1968, ch. 530, § 12, eff from and after passage (approved August 8, 1968), as amended by Laws of 1972, ch. 435, § 1, eff from and after passage (approved May 2, 1972), provides:

"SECTION 12. If any word, line, sentence or part of this act should hereafter be declared unconstitutional by any court, such decision shall not be construed so as to invalidate the remainder hereof."

ATTORNEY GENERAL OPINIONS

A hotel, so long as it has as its objective the promoting of conventions, tourism and trade, falls within the definition of a "convention center", and therefore is a "related facility" to a multipurpose coliseum. Byrd, Nov. 19, 1999, A.G. Op. #99-0614.

The Mississippi Coast Coliseum Commission is authorized to receive revenue from its operations and to invest funds not needed for current expenditures. Such funds and the earnings thereon would not be part of the Trust Fund and would not be subject to the protections afforded to the Trust Fund. Gollot, Apr. 8, 2005, A.G. Op. 05-0169.

§ 55-24-11. Budget and employment of clerical assistance.

The Coliseum Commission shall submit its budget and receive an appropriation in accordance with the requirements and procedures set forth in Chapter 496, Laws of 1962, being Sections 27-103-1 et seq., Mississippi Code of 1972, applicable to "Special Fund Agencies."

The Coliseum Commission is authorized to employ a director and such other employees as are necessary to perform and carry out the duties of the commission.

The commissioners and director are public officers within the meaning and intent of Section 97-11-19, Mississippi Code of 1972.

SOURCES: Laws, 1968, ch. 530, § 6; Laws, 1972, ch. 435, § 1; Laws, 1975, ch. 445, § 2, eff from and after July 1, 1976.

Joint Legislative Committee Note — This section was codified in 1998 as Section 55-24-11 of the Mississippi Code of 1972 pursuant to the direction of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation at its meeting on May 20, 1998.

Editor's Note — Laws of 1968, ch. 530, § 12, eff from and after passage (approved August 8, 1968), as amended by Laws of 1972, ch. 435, § 1, eff from and after passage (approved May 2, 1972), provides:

"SECTION 12. If any word, line, sentence or part of this act should hereafter be declared unconstitutional by any court, such decision shall not be construed so as to invalidate the remainder hereof."

Sections 27-103-1 et seq. referred to in this section have been repealed.

Section 97-11-19 referred to in this section was repealed by Laws of 1983, ch. 469, § 10, eff from and after July 1, 1983.

§ 55-24-13. Commissioner compensation and expenses.

Each commissioner of the Mississippi Coast Coliseum Commission may receive compensation in the amount authorized in Section 25-3-69, Mississippi Code of 1972, while engaged in commission meetings or other duties of the commission, but such allowances shall not exceed One Thousand Eight Hundred Dollars ($1,800.00) for any one (1) commissioner during the calendar year. Commissioners may be reimbursed for their actual expenses when on commission business.

SOURCES: Laws, 1968, ch. 530, § 7; Laws, 1972, ch. 435, § 1; Laws, 1997, ch. 613, § 1, eff from and after passage (approved April 23, 1997).

Joint Legislative Committee Note — This section was codified in 1998 as Section 55-24-13 of the Mississippi Code of 1972 pursuant to the direction of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation at its meeting on May 20, 1998.

Editor's Note — Laws of 1968, ch. 530, § 12, eff from and after passage (approved August 8, 1968), as amended by Laws of 1972, ch. 435, § 1, eff from and after passage (approved May 2, 1972), provides:

"SECTION 12. If any word, line, sentence or part of this act should hereafter be declared unconstitutional by any court, such decision shall not be construed so as to invalidate the remainder hereof."

§ 55-24-15. Letting contracts.

In the letting of contracts and in advertisement for bids thereon for the development, construction, repair or maintenance of any structures, facilities and lands required pursuant to this chapter, the Mississippi Coast Coliseum

Commission shall comply with all of the requirements of the general laws of the State of Mississippi governing and regulating the advertisement for bids and letting of contracts by the State of Mississippi.

SOURCES: Laws, 1968, ch. 530, § 8; Laws, 1972, ch. 435, § 1, eff from and after passage (May 2, 1972).

Joint Legislative Committee Note — This section was codified in 1998 as Section 55-24-15 of the Mississippi Code of 1972 pursuant to the direction of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation at its meeting on May 20, 1998.

Editor's Note — Laws of 1968, ch. 530, § 12, eff from and after passage (approved August 8, 1968), as amended by Laws of 1972, ch. 435, § 1, eff from and after passage (approved May 2, 1972), provides:

"SECTION 12. If any word, line, sentence or part of this act should hereafter be declared unconstitutional by any court, such decision shall not be construed so as to invalidate the remainder hereof."

Laws of 1972, ch. 435, §§ 9, 11, eff from and after passage (approved May 2, 1972), as amended by Laws of 1975, ch. 445, §§ 3-6, eff from and after passage (approved April 2, 1975), provides:

"SECTION 9. The issuance of bonds, provided for the levy of a Coliseum Tax to pay for principal and interest on bonds authorized under the act, provided that no bonds authorized under the act could be issued after May 2, 1978, and provided for a discontinuance of the tax upon certification by the State Treasurer that the Mississippi Coast Coliseum Commission Bond Sinking Fund had sufficient balances to pay the principal and interest on such bonds and that there was no outstanding indebtedness due to the state for payment of any deficiencies.

"SECTION 11. The submission of a capital improvements budget for the purpose of constructing and equipping a multipurpose coliseum facility and authorized certain payments from bonds authorized under the act for constructing and equipping a separate convention center and/or fine arts center."

§ 55-24-17. Mississippi Coast Coliseum and Convention Trust Fund established; commission authorized to utilize trust fund under certain conditions to make repairs to coliseum necessitated by damage resulting from Hurricane Katrina.

(1) The proceeds from the tax authorized under the provisions of Sections 1 and 2 of Chapter 863, Local and Private Laws of 1987, shall be paid to the Mississippi Coast Coliseum Commission for the establishment of a trust fund for the operational, maintenance, replacement and capital expenses of the Mississippi Coast Coliseum and Convention Center, as hereinafter provided. All such proceeds shall be deposited by the commission in a trust fund which the commission is hereby authorized to establish. The trust fund shall be known as the Mississippi Coast Coliseum and Convention Trust Fund. Amounts on deposit in the fund shall be invested in interest-bearing accounts or approved securities to include, but not limited to, U.S. Treasury bills and U.S. Treasury notes and bonds, federal agency securities or federal mortgage-backed securities guaranteed as to repayment of principal by the federal government or an agency of the federal government, certificates of deposits fully covered by insurance administered by the Federal Deposit Insurance

Corporation or covered by pledge securities, repurchase agreements and short-term money market funds invested in U.S. Government and U.S. Government agencies. All interest income earned on the fund shall be paid over to the commission and applied solely to the payment of operating, maintenance and replacement expenses of the Mississippi Coast Coliseum and Convention Center. The principal amount deposited into the fund from the proceeds of the special taxes authorized by Chapter 863, Laws of 1987 shall not be withdrawn from the trust for any purpose whatsoever except as provided for in subsection (2) of this section. The interest earned on the fund may also be used for debt service for capital improvements or expansion or for payment of expenses for operations, maintenance and replacement of capital improvements.

(2) The commission is authorized, in its discretion, to utilize the trust fund to make necessary repairs, restorations and improvements to the Mississippi Coast Coliseum necessitated by damage suffered as a result of Hurricane Katrina if the proceeds of the trust fund so utilized will be reimbursed to the commission by the Federal Emergency Management Agency or any other state or federal agency or entity. The proceeds of any reimbursement shall, upon receipt, be deposited into the trust fund.

SOURCES: Laws, 1987, ch. 863, § 3; Laws, 1990, ch. 899, § 2; Laws, 2006, ch. 384, § 1, eff from and after passage (approved Mar. 13, 2006.)

Joint Legislative Committee Note — This section was codified in 1998 as Section 55-24-17 of the Mississippi Code of 1972 pursuant to the direction of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation at its meeting on May 20, 1998.

Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in the first paragraph. The number (1) was added preceding "The proceeds from the tax authorized under the provisions of" at the beginning. The Joint Committee ratified the correction at its May 31, 2006 meeting.

Editor's Note — Laws of 1987, ch. 863, §§ 1, 2, eff from and after passage (approved April 8, 1987), provided for the levy and collection of a coliseum tax from persons in Harrison County for a period of two years after such tax levy began, or until Seven Million Dollars ($7,000,000.00) was raised, provided that a suitable resolution was adopted in the manner provided by the act by the Board of Supervisors of Harrison County.

ATTORNEY GENERAL OPINIONS

Since the Legislature established the Mississippi Coast Coliseum and Convention Center Trust Fund by legislative enactment, i.e., by general and local and private law, and set forth the conditions upon which the interest earnings or principal may be used, the Legislature can change the terms and conditions of the trust by appropriate legislative enactment as well. Gollot, Apr. 8, 2005, A.G. Op. 05-0169.

§ 55-24-19. The coliseum commission may accept grants and contributions.

The coliseum commission, in addition to the moneys which may be received by it from the sale of bonds and from the collection of revenues, rents and earnings derived under the provisions of this chapter, shall have the authority to accept from any public or private agency, or from any individual, grants for or in aid of the construction of any planned development, or for the payment of bonds, and to receive and accept contributions from any source of money or property or other things of value to be held, used and applied only for the purposes for which such grants or contributions may be made.

SOURCES: Laws, 1968, ch. 530, § 9; Laws, 1972, ch. 435, § 1, eff from and after passage (approved May 2, 1972).

Joint Legislative Committee Note — This section was codified in 1998 as Section 55-24-19 of the Mississippi Code of 1972 pursuant to the direction of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation at its meeting on May 20, 1998.

Editor's Note — Laws of 1968, ch. 530, § 12, eff from and after passage (approved August 8, 1968), as amended by Laws of 1972, ch. 435, § 1, eff from and after passage (approved May 2, 1972), provides:

"SECTION 12. If any word, line, sentence or part of this act should hereafter be declared unconstitutional by any court, such decision shall not be construed so as to invalidate the remainder hereof."

§ 55-24-21. Full and complete authority.

This chapter shall be deemed to be full and complete authority for the exercise of the powers herein granted.

SOURCES: Laws, 1968, ch. 530, § 10; Laws, 1972, ch. 435, § 1, eff from and after passage (approved May 2, 1972).

Joint Legislative Committee Note — This section was codified in 1998 as Section 55-24-21 of the Mississippi Code of 1972 pursuant to the direction of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation at its meeting on May 20, 1998.

Editor's Note — Laws of 1968, ch. 530, § 12, eff from and after passage (approved August 8, 1968), as amended by Laws of 1972, ch. 435, § 1, eff from and after passage (approved May 2, 1972), provides:

"SECTION 12. If any word, line, sentence or part of this act should hereafter be declared unconstitutional by any court, such decision shall not be construed so as to invalidate the remainder hereof."

§ 55-24-23. Conflicting laws superseded.

Notwithstanding the provisions of any laws or parts of laws in conflict herewith, the provisions of this chapter shall be controlling to the extent of the conflict.

SOURCES: Laws, 1968, ch. 530, § 11; Laws, 1972, ch. 435, § 1, eff from and after passage (approved May 2, 1972).

Joint Legislative Committee Note — This section was codified in 1998 as Section 55-24-23 of the Mississippi Code of 1972 pursuant to the direction of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation at its meeting on May 20, 1998.

Editor's Note — Laws of 1968, ch. 530, § 12, eff from and after passage (approved August 8, 1968), as amended by Laws of 1972, ch. 435, § 1, eff from and after passage (approved May 2, 1972), provides:

"SECTION 12. If any word, line, sentence or part of this act should hereafter be declared unconstitutional by any court, such decision shall not be construed so as to invalidate the remainder hereof."

CHAPTER 25

Rails-to-Trails Recreational District

SEC.
55-25-1. Establishment; purpose; acquisition of rights in land; acceptance of funds; contracts for operation and maintenance of trails.
55-25-3. District board of directors; appointment; oath of office; compensation.
55-25-5. General powers of board.
55-25-6. Publication of rules and regulations; rules and regulations to have force of law upon publication; penalty for violation; recreational facilities developed and operated pursuant to this chapter constitute public highways; rules and regulations of Transportation Commission enforceable on such facilities; vehicle restrictions; municipalities required to enforce the rules and regulations of a rails-to-trails recreational district of which it is a member.
55-25-7. Levy of tax by county or municipality for support and maintenance of district.
55-25-9. Payment of tax proceeds to depository of district; advance of county or municipal funds to district.
55-25-11. Acceptance of grants, loans, etc., by board.
55-25-13. Deposit of district funds in depository.
55-25-15. Addition of adjacent counties and municipalities to district.

§ 55-25-1. Establishment; purpose; acquisition of rights in land; acceptance of funds; contracts for operation and maintenance of trails.

(1) The board of supervisors of one or more counties and the governing authorities of one or more municipalities located within participating counties are hereby authorized to act jointly in the establishment of a Rails-To-Trails Recreational District (hereinafter in this chapter "district") by spreading upon their minutes a resolution establishing such a district. The boundaries of the district shall be defined by a general description in the resolution.

(2) A district shall be established for the purpose of utilizing available railroad rights-of-way as public recreational trails or as interim trails for rail banking as set forth in Section 8(d) of the National Trails Systems Act (16 U.S.C.S. 1247(d)), and a district may acquire by gift or purchase, title to or any lesser interest in, such available railroad right-of-way.

(3) Districts may by gift or purchase acquire title to, or any lesser interest in, any areas abutting the rights-of-way of acquired railroad rights-of-way which are or may be needed for the construction of trail-user support facilities. Easements and rights-of-way upon, over, under, along or across any land the fee title of which has been acquired by a district for a trail project may be granted by such district so long as the use of the easement or right-of-way does not interfere with the use of the land as a trails project and only after such grant shall have been first approved by the counties and municipalities participating in the district.

(4) A district may accept funds from any source, public or private, for the purpose of acquiring lands and planning, constructing, operating and main-

taining trails under the provisions of this chapter. Districts may also execute contractual agreements with the Department of Wildlife, Fisheries and Parks or with any existing water district having jurisdiction in the counties or parts of counties comprising a district by which the department or water district will assume responsibility for the operation and maintenance of a trail developed under this chapter.

SOURCES: Laws, 1994, ch. 574, § 1, eff from and after passage (approved April 7, 1994).

Cross References — Authority of the Department of Wildlife, Fisheries and Parks to enter into operation and maintenance agreements with districts, see § 55-3-33.

Levy of tax by county or municipality for support and maintenance of district, see § 55-25-7.

Counties adjacent to a previously created district, and any municipalities therein, authorized to join district, using procedures established in this section, see § 55-25-15.

§ 55-25-3. District board of directors; appointment; oath of office; compensation.

(1) A district shall be governed by a board of directors who shall be appointed as follows: the governing authorities of each participating county and each participating municipality shall appoint one (1) resident of its jurisdiction as its member of the board. The term of each member shall coincide with that of the appointing official, so that after the initial appointments, terms shall be for a period of four (4) years.

(2) Each director shall, before a chancery clerk, take and subscribe to the general oath of office required by Section 268 of the Constitution of the State of Mississippi, and the oath shall be filed with such clerk and by him preserved.

(3) If compensation is paid to any member of the board of directors, it shall be paid by the district from any funds available. In no event shall such compensation exceed the sum of Twenty-two Dollars and Fifty Cents ($22.50) per day.

SOURCES: Laws, 1994, ch. 574, § 2, eff from and after passage (approved April 7, 1994).

§ 55-25-5. General powers of board.

Any rails-to-trails recreational district, through its board of directors, is hereby empowered:

(a) To establish rules and regulations for the use of the recreational facilities of the district;

(b) To apply for and accept grants from the United States of America, or from any corporation or agency created or designated by the United States of America, and to ratify and accept applications therefor made by voluntary associations to such agencies for grants to construct, maintain or operate any project or projects which hereafter may be undertaken or contemplated by such district;

(c) To do any and all other acts or things necessary, requisite or convenient to the exercising of the powers, rights, privileges or functions conferred upon it by this chapter or by any act of law;

(d) To employ such persons as are necessary to perform the services required of the district;

(e) To enter into agreements and execute contracts necessary or convenient to the exercise of the powers, rights, privileges and functions conferred upon it by this chapter;

(f) To develop, operate, maintain and support a recreational facility for hikers, bikers, horsemen or others on and along railroad rights-of-way acquired for that purpose and for the use and enjoyment of the general public; and

(g) To sue and be sued.

SOURCES: Laws, 1994, ch. 574, § 3, eff from and after passage (approved April 7, 1994).

Cross References — Authority of the Department of Wildlife, Fisheries and Parks to enter into operation and maintenance agreements with districts, see § 55-3-33.

Publication of rules and regulations, see § 55-25-6.

Penalties for violation of rules and regulations, see § 55-25-6.

Authority of board to levy tax for the support and maintenance of the district, see § 55-25-7.

Authority of board to accept grants, loans, gifts, etc., see § 55-25-11.

ATTORNEY GENERAL OPINIONS

A trail built pursuant to a rails-to-trails program is not a county road so as to allow for maintenance with county road and bridge funds. Hollimon, Mar. 23, 2001, A.G. Op. #01-0081.

§ 55-25-6. Publication of rules and regulations; rules and regulations to have force of law upon publication; penalty for violation; recreational facilities developed and operated pursuant to this chapter constitute public highways; rules and regulations of Transportation Commission enforceable on such facilities; vehicle restrictions; municipalities required to enforce the rules and regulations of a rails-to-trails recreational district of which it is a member.

(1) The rules and regulations adopted by the Rails-to-Trails Recreational District shall be published once a week for two (2) consecutive weeks in a newspaper qualified to publish legal notices in each county that is a member of the district. When rules and regulations have been adopted by the district in accordance with Section 55-25-5 and have been published as required by this section, such rules and regulations shall have the force and effect of general law, and any violation of such rules and regulations shall constitute a misdemeanor punishable, upon conviction, by a fine of not less than Fifty Dollars ($50.00) nor more than Five Hundred Dollars ($500.00), or by impris-

onment for not more than thirty (30) days, or by both such fine and imprisonment.

(2) Any recreational facility developed and operated pursuant to this chapter, specifically including Section 55-25-5(f), shall constitute a public highway, and all applicable rules and regulations of the Mississippi Transportation Commission and other state agencies shall be enforceable on such recreational facilities. However, no motor vehicle may be operated or used on such recreational facility except law enforcement vehicles, emergency vehicles, maintenance vehicles or other vehicles authorized by the district.

(3) Any municipality, which is a member of a Rails-To-Trails Recreational District, shall enforce the rules and regulations of the district in that part lying within the municipality and may authorize its municipal law enforcement personnel to assist the district in the enforcement of the district rules and regulations in any area of the district lying no more than five (5) miles outside the corporate limits of the municipality.

SOURCES: Laws, 2000, ch. 471, § 2; Laws, 2004, ch. 404, § 1, eff from and after July 1, 2004.

Cross References — Imposition of standard state assessment in addition to all court imposed fines or other penalties for any misdemeanor violation, see § 99-19-73.

§ 55-25-7. Levy of tax by county or municipality for support and maintenance of district.

The board of supervisors of any county or the governing authorities of any municipality which become a part of a district may levy a tax upon all taxable property in the county or municipality for the support and maintenance of the district in an amount not to exceed one-fourth (¼) mill. Any county or municipality which desires to remain a part of such district shall levy each year beginning the second year after joining the district a tax for the support and maintenance of the district of not less than one-fourth (¼) mill or such county or municipality will not remain a part of the district. Should any county or municipality desire to appropriate an equivalent sum from the general fund, or other available funds, the levying of the tax provided herein shall not be mandatory.

Should the board of directors of any such district determine that a tax levy of less than one-fourth (¼) mill on the property of the counties and municipalities comprising the district would be sufficient to maintain and operate the district for the forthcoming fiscal year, such determination shall, by resolution, be spread upon the minutes of the board and shall recite the amount of tax levy which will suffice. A certified copy of such resolution shall be delivered to the clerks for the board of supervisors of the counties and municipal authorities affected thereby; and, thereafter, the board of supervisors and the governing authorities may for the forthcoming year levy a tax of no less than that declared to be sufficient in such resolution without losing their qualifications as members of the district.

Any tax levy made under the provisions of this section shall be used exclusively for the support and maintenance of the district and shall be made by the board of supervisors and municipal governing authorities at the time and in the manner that other tax levies are made. The revenues provided for in this chapter shall not, under any circumstances, be commingled with other funds of counties or municipalities.

SOURCES: Laws, 1994, ch. 574, § 4, eff from and after passage (approved April 7, 1994).

§ 55-25-9. Payment of tax proceeds to depository of district; advance of county or municipal funds to district.

The board of supervisors of each county and the governing authorities of each municipality becoming a member of a district shall annually, on or before March 15 of each year beginning with the calendar year in which the district is created, pay or cause to be paid to the depository of the district the total avails from the taxes levied pursuant to Section 55-25-7 for the purpose of supporting the district. Such payment shall be made and continued as long as the district remains in existence, there is need therefor, and the county and municipality remain a part thereof.

Any municipality or county participating in a district may advance funds to the district to pay the preliminary expenses of the district, including reports, organization and administration expenses, on such terms of repayment as the governing body of the county or municipality shall determine.

SOURCES: Laws, 1994, ch. 574, § 5, eff from and after passage (approved April 7, 1994).

§ 55-25-11. Acceptance of grants, loans, etc., by board.

The board of directors of a district is hereby authorized and empowered to accept grants, loans, gifts, bequests or funding from any source, public or private, that the granting agency has authority to provide; but in no circumstances shall the acceptance of any such funding obligate any district to repay a sum in excess of the avails of the tax levies authorized by this chapter.

SOURCES: Laws, 1994, ch. 574, § 6, eff from and after passage (approved April 7, 1994).

§ 55-25-13. Deposit of district funds in depository.

All funds of a district shall be deposited by the board of directors in a bank or banks located within the counties or municipalities creating the district and qualified as a county or state depository.

SOURCES: Laws, 1994, ch. 574, § 7, eff from and after passage (approved April 7, 1994).

§ 55-25-15. Addition of adjacent counties and municipalities to district.

After any district has been formed, any other county located immediately adjacent to a district, and any municipality therein, may join a district by the same procedure as if it were initiating the district, including the appointment of an additional member to the existing board of directors.

SOURCES: Laws, 1994, ch. 574, § 8, eff from and after passage (approved April 7, 1994).

Expenses; advance of county or municipal funds to district.

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CHAPTER 1

Mississippi Development Authority

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§ 57-1-1. Declaration of public policy.

It is hereby declared that the state public welfare demands, and the state public policy requires:

(a) That a balanced economic development of this state is essential.

(b) That the reconversion from wartime economy to peacetime pursuits appears reasonably imminent, requiring a planning program for readjustment of employment to accord with employment problems necessarily arising from changed conditions.

(c) That the present and prospective health, safety, morals, pursuit of happiness, right to gainful employment and the general welfare of the citizens demand as a public purpose the development within Mississippi of commercial, industrial, agricultural, manufacturing and tourism enterprises, herein called "enterprises" by the several counties, supervisors districts and municipalities, all herein called "municipalities." "Enterprises" shall be construed to include expansion of such existing buildings and facilities, conditioned, however, that the municipality, if required by the

Board of Economic Development, shall take security upon the existing building or buildings at the time of entering into contract for the expansion of existing buildings and facilities.

(d) That the means and measures herein authorized to promote said enterprises are, as a matter of public policy, for the public purposes of the several counties, supervisors districts, municipalities, and of the State of Mississippi.

(e) That the present and prospective promotion of health, safety, morals, pursuit of happiness, right to gainful employment, and the general welfare of the state requires the accomplishment of that which is herein and hereby authorized, in order to afford ready and attractive markets for farm and garden products, to develop natural resources and convert raw materials of farm, mine and forest into finished products for the general welfare of each of said municipalities and the entire state.

(f) That the accomplishment of the things herein authorized to be done by the several municipalities will give to them local benefits peculiar to each.

SOURCES: Codes, 1942, § 8936-05; Laws, 1944, ch. 241, § 6; Laws, 1958, ch. 531, § 2; Laws, 1979, ch. 438, § 1; Laws, 1986, ch. 374, eff from and after July 1, 1986.

Editor's Note — Section 57-1-2 provides that the references to the Board of Economic Development shall mean the Department of Economic and Community Development.

Section 57-1-54 provides that the Mississippi Development Authority shall be the Department of Economic and Community Development, and that whenever the term "Mississippi Department of Economic and Community Development," "Mississippi Department of Economic Development," or any variation thereof, appears in any law the same shall mean the Mississippi Development Authority.

Laws of 2010, ch. 533, § 2 provides:

"SECTION 2. The Legislature recognizes that the tourism industry stimulates economic development throughout the State of Mississippi in the same manner as that resulting from the location of an industrial, scientific or educational project in the state and that promoting tourism programs and projects is equally as important as attracting certain industries to the state. The Legislature finds that an integral component of the tourism industry in the state consists of programs and projects promoting the heritage, history and culture of the state and demonstrating the state's attractiveness as a tourism destination for those reasons. Therefore, creating and enhancing opportunities for visitors to Mississippi to learn about and appreciate the state's heritage, history and culture, including literature and the arts, is a priority for the Division of Tourism Development of the Mississippi Development Authority."

Laws of 2011, ch. 399, § 1, provides:

"SECTION 1. The Department of Finance and Administration, acting on behalf of the Mississippi Development Authority, is authorized to sell and convey to Bruce Green certain real property and any improvements thereon located in Prentiss County, Mississippi, which property is more particularly described as follows:

"That certain 106 ⅔ acres vested in Charlie E. Green and wife, Olive E. Green, by Warranty Deed executed by D.W. Jumper and wife, Nettie Jumper, on the 19th day of June, 1956, and recorded in Deed Book 70 on page 215, in the Chancery Clerk's records of Prentiss County, Mississippi, LESS AND EXCEPT that parcel conveyed in the Northwest Quarter of Section 29, Township 4, Range 6, by Charlie E. Green and wife, Olive E. Green to C.O. Eaton on the 29th day of December, 1960, and recorded in Deed

Book 76 on Page 48 and more particularly described as follows: A part of the Northwest Quarter of Section 29, Township 4, Range 6 bounded as follows: Commencing at a point 53 ⅓ rods East of the Northwest Corner of said Quarter and run South 140 rods; thence East 53 ⅓ rods; South 20 rods to South boundary of said Quarter; thence East 53 ⅓ rods; thence North 160 rods; thence West 106 ⅔ rods to the point of beginning. Containing 100 acres, more or less. This conveyance totaling 6 ⅔ acres in the Northwest Quarter of Section 29, Township 4, Range 6, Prentiss County, Mississippi.

"(2) The real property described in subsection (1) of this section shall not be sold for less than the current fair market value as determined by the averaging of at least two (2) appraisals by qualified appraisers selected by the Department of Finance and Administration.

"(3) Proceeds from the sale of the real property described in subsection (1) of this section shall be deposited into the State General Fund."

Laws of 2011, ch. 527, § 1, provides:

"SECTION 1. (1) The Department of Finance and Administration, acting on behalf of the State of Mississippi, is authorized to accept and receive from the Tennessee Valley Authority all right, title and interest in certain real property and any improvements thereon located in Tishomingo County, Mississippi, more particularly described as follows: A parcel of land lying partially in the N½ of the SE¼ of Section 21, partially in the S½ of the NW¼ of Section 22, partially in the SW¼ of Section 22, partially in W½ of the SE¼ of Section 22, partially in NW¼ of Section 27 and also partially in the W½ of the NE¼ of Section 27, Township 1 South, Range 10 East, Tishomingo County, State of Mississippi, also being along the banks of the Yellow Creek embayment of the Pickwick Reservoir and Tennessee-Tombigbee Waterway and being more particularly described as follows:

"Beginning at a point, said point being the SW¼ corner of said Section 22 and the NW¼ corner of said Section 27 and being on the TVA Pickwick Reservation Boundary Line; thence N00°03′W, 1080.00 feet more or less to an angle iron (found) on the TVA Pickwick Reservation Boundary Line and westerly right of way of County Road #351, being Corner No. 23; thence leaving the said point and the said TVA Pickwick Reservation Boundary Line and with the meandering along the centerline of an old road 1005 feet more or less to a point, said point being Corner No. 1-1-29; thence leaving said point N71°13′ E-143 feet to a point, said point being Corner No. 1-1-13; thence leaving said point and meandering with centerline of the said old road N50°08′W-148 feet to a point, said point being Corner No. 22; thence leaving said point N88°59′W-377 feet to a point, said point being in the northeast right-of-way line of State Highway 25, said point being Corner No. 1-1-14; thence leaving said point in a northwesterly direction 113 feet to a point, said point being Corner No. 1-1-15; thence leaving said point and continuing in a northwesterly direction 203 feet to a point, said point being Corner No. 1-1-16; thence leaving said point N43°06′W-123 feet to a point, said point Corner No. 1-1-17; thence leaving said point N46°54′W-35 feet to a point, said point being a right-of-way marker No. 1-1-18; thence leaving said point in a northwesterly direction 100 feet to a point, said point being Corner No. 1-1-18A, said point also being in the 423 foot mean sea level contour line, herein after referred to as (msl) contour line; thence leaving said point Due north 100 feet more or less, to a point in the 414 foot (msl) contour line; thence leaving said point and with the meanders of the said 414 foot (msl) contour line as follows: northeasterly, southeasterly, northeasterly, southwesterly, northeasterly, southerly, easterly and then southeasterly to a point, said point being Corner No. 9-1 in the 414 foot (msl) contour line; thence leaving said point and said contour line S70°23′13"W-235.91 feet to a point, said point being Corner No. 9-2 (set) and being on the TVA Pickwick Reservation Boundary Line; thence leaving said point and with said boundary line S02°02′10"W-530.77 feet to a point, said point being Corner No. 6A; thence leaving said point and continuing with said boundary line N00°35′W-1900 feet to the point of beginning and containing 293.9 acres more or less.

"The above described parcel of land is lying partially in the N½ of the SE¼ of Section 21, partially in the S½ of the NW¼ of Section 22, partially in the SW¼ of Section 22, partially in W½ of the SE¼ of Section 22, partially in NW¼ of Section 27 and also partially in the W½ of the NE¼ of Section 27, Township 1 South, Range 10 East, Tishomingo County, State of Mississippi.

"(2) The real property described in subsection (1) of this section may be accepted by the Department of Finance and Administration and titled in the name of the State of Mississippi for the benefit and use of the Mississippi Development Authority, provided that:

"(a) The outstanding indebtedness remaining due to the Tennessee Valley Authority shall be forgiven as a condition upon the acceptance of the real property described in subsection (1) of this section by the State of Mississippi; and

"(b) No such deed of acceptance shall be executed until an adequate Phase I environmental assessment of the real property has been completed and submitted to the Mississippi Development Authority indicating that such property is clear of any environmental contaminants and/or pollutants. As a condition of this acceptance and upon satisfactory results of the Phase I environmental assessment, the State of Mississippi agrees to indemnify and hold harmless the Tennessee Valley Authority from all liabilities arising out of the environmental condition of the property.

"(3)(a) Upon acquiring the real property described in subsection (1) of this section, the Mississippi Development Authority may donate to a governmental entity or sell any portion of the real property for industrial purposes. Such real property shall not be sold for less than the current fair market value as determined by the averaging of at least two (2) appraisals by qualified appraisers selected by the Department of Finance and Administration.

"(b) If any of the real property described in subsection (1) of this section is conveyed to a governmental entity and thereafter sold and conveyed to a public or private entity for industrial purposes as provided in paragraph (a) of this subsection, the funds received from such sale and conveyance shall be paid into the appropriate fund for use by the Yellow Creek State Inland Port Authority for equipment or facilities necessary to the operation of the port. With the exception of the portion of the ad valorem tax amount assessed and collected for the support of schools and education, any tax revenues collected on the real property shall be paid into the appropriate fund for use by the Yellow Creek State Inland Port Authority for equipment or facilities necessary to the operation of the port."

Cross References — Supplemental authority for participation in projects and issuance of bonds for solid or hazardous waste treatment projects, see §§ 17-17-101 et seq.

County and municipal appropriations to planning and development districts, see § 17-19-1.

Exemption of bonds issued by a county under §§ 57-1-1 through 57-1-51 from limitations on indebtedness, see § 19-9-5.

Exemption of bonds issued by municipalities under §§ 57-1-1 through 57-1-51 from limitations on indebtedness, see § 21-33-303.

Authority of governing board to issue county or municipal bonds for pollution control, see § 49-17-121.

Small business development center, see § 57-55-11.

ATTORNEY GENERAL OPINIONS

Following the grant of a certificate of public convenience and necessity by the Department of Economic and Community Development, the municipality must comply with all other prerequisites set out in Section 57-1-1 et seq., such as the requirement of a municipal election, prior to engaging in the municipal enterprise. Ringer, November 22, 1996, A.G. Op. #96-0677.

The current corporate lessee of county-owned property first leased in 1963 under the old A. & I. statutes with exemption from ad valorem taxes for an unspecified period is entitled to an exemption for 10 years from the date the county approved assignment of the lease to that company. When the 10 years has already expired and the county erroneously omitted that leasehold from the tax assessment rolls for several years, the county may not assess back taxes. Approval by the county of sub-leases of the property is not an unlawful donation to a private party. Munn, March 9, 2007, A.G. Op. #07-00067, 2007 Miss. AG LEXIS 101.

RESEARCH REFERENCES

Am Jur. 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions §§ 189 et seq.

§ 57-1-2. Definitions.

For the purposes of this chapter, the following words shall have the meanings ascribed herein, unless the context otherwise requires:

(a) "Department" shall mean the Mississippi Development Authority.

(b) "Office" shall mean an administrative subdivision of the department.

(c) "Executive director" shall mean the executive officer of the department.

(d) "Agricultural and Industrial Board," "Department of Economic Development," "Board of Economic Development," "Department of Economic and Community Development" and "Mississippi Department of Economic and Community Development" wherever they appear in the laws of the State of Mississippi, shall mean the "Mississippi Development Authority," operating through its executive director.

SOURCES: Laws, 1979, ch. 438, § 3; Laws, 1988, ch. 518, § 26; Laws, 1989, ch. 544, § 39; Laws, 1990, ch. 522, § 34; Laws, 2000, 2nd Ex Sess, ch. 1, § 2, eff from and after passage (approved August 30, 2000.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'. "

Section 57-1-54 provides for the transfer of powers and duties of the Department of Economic Development to the Mississippi Development Authority.

Cross References — Creation of Department of Economic and Community Development, see § 57-1-52.

§ 57-1-3. Department seal; advisory council.

(1) The Department of Economic and Community Development shall have an official seal, and all orders, findings, acts and certifications of the department shall be attested by such seal, and by the signature of the executive director; and when so attested, all orders, acts, findings and certifications of the department shall be competent evidence and shall be given full faith and credit in any proceedings of a court in this state.

(2) The Governor shall appoint an advisory council to the department, which shall consist of twenty-five (25) members, five (5) from each congression-

al district as constituted on January 1, 1979, whose terms shall be concurrent with that of the appointing Governor. The council shall meet two (2) times each year, once on or before June 30 of each year and once after June 30, but prior to December 31, of each year. The members of the council shall serve without pay and without compensation for expenses. The Governor shall serve as chairman of the council. The council shall advise the department on matters under the jurisdiction of the department.

(3) The Lieutenant Governor may designate two (2) Senators and the Speaker of the House of Representatives may designate two (2) Representatives to attend any meeting of the advisory council created in subsection (2) of this section. The appointing authorities may designate alternate members from their respective houses to serve when the regular designees are unable to attend meetings of the advisory council. For attending meetings of the advisory council, such legislators shall receive per diem and expenses which shall be paid from the contingent expense funds of their respective houses in the same amounts as provided for committee meetings when the Legislature is not in session; however, no per diem and expenses for attending meetings of the advisory council will be paid while the Legislature is in session. No per diem and expenses will be paid except for attending meetings of the advisory council without prior approval of the proper committee of the respective house of the Legislature.

SOURCES: Codes, 1942, § 8936; Laws, 1940, ch. 147; Laws, 1944, ch. 241, § 1; Laws, 1950, ch. 190, § 1; Laws, 1952, ch. 171; Laws, 1960, ch. 142; Laws, 1979, ch. 438, § 2; Laws, 1980, ch. 560, § 25; Laws, 1984, ch. 488, §§ 324 and 325; Laws, 1985, ch. 417; Laws, 1986, ch. 500, § 44; Laws, 1988, ch. 466, § 13; Laws, 1988, ch. 518, § 27; Laws, 1989, ch. 544, § 40, eff from and after July 1, 1989.

Cross References — Affect of any member of a board, commission, council or authority changing domicile after appointment, see § 7-13-9.

Role of Department of Economic and Community Development with respect to promotion of projects for treatment of solid or hazardous wastes, see §§ 17-17-101 et seq.

For provision authorizing uniform per diem compensation for officers and employees of state boards, commissions and agencies, see § 25-3-69.

Board's powers in connection with Mississippi Private Activity Bonds Allocation Act, see §§ 31-23-53 et seq.

Necessity of approval of board for State Bond Commission to borrow funds for Institute for Technology Development, see § 31-29-5.

Duty to review applications for funds under Junior College Vocational and Technical Training Law of 1964, see § 37-29-169.

Environmental Quality Law, see §§ 49-17-3 et seq.

Creation of Department of Economic and Community Development, see § 57-1-52.

Agriculture and industry program, see §§ 57-3-1 et seq.

Industrial Park Law of 1960, see §§ 57-5-1 et seq.

Industrial Training Law of 1964, see §§ 57-9-1 et seq.

Small businessman's loan assistance law, see §§ 57-10-101 et seq.

Selected Industrial Feasibility Law of 1964, see §§ 57-11-61 et seq.

Regional tourist promotion councils, see §§ 57-27-1 et seq.

Power of the board to promulgate rules and regulations in connection with municipal loans to finance industrial enterprise projects, see § 57-41-17.

Mississippi Urban Research Center, see § 57-55-17.

Duties of the board with respect to development and establishment of export trade, see §§ 57-57-1 et seq.

Board's responsibilities with respect to guidelines, rules and regulations for repayment of funds loaned under Mississippi Business Investment Act, see § 57-61-11.

Authority and duties of the board with respect to the state economic development action plan, see §§ 57-63-1 et seq.

Powers and duties of the Mississippi Department of Economic and Community Development with respect to the economic development highway act, see §§ 65-4-1 et seq.

Duties of commissioner of agriculture and commerce generally, see § 69-1-13.

Assistance by Department of Economic and Community Development in making relevant information available to Cooperative Extension Service for information clearinghouse assisting farmers, see § 69-2-5.

Designation of "emerging crop" by Department of Economic and Community Development, for purposes of Mississippi Farm Reform Act, see §§ 69-2-9, 69-2-11.

Authorization for State Department of Economic and Community Development to declare necessity for issuance of bonds to provide funds for Emerging Crops Fund under Mississippi Farm Reform Act, see § 69-2-19.

JUDICIAL DECISIONS

1. In general.

Section 57-1-3(4), which regulates the Board of Economic Development [now the Mississippi Development Authority], § 25-11-15, which regulates the Board of Trustees of the Public Employees' Retirement System, § 25-53-7, which regulates the Central Data Processing Authority [Mississippi Department of Information Technology Services], § 25-9-109, which regulates the State Personnel Board, § 43-13-107, which regulates the Medicaid Commission, § 29-5-1, which regulates the Capitol Commission, § 49-5-61, which regulated the Wild Life Heritage Committee, and former § 47-5-12, which regulated the Board of Corrections, are unconstitutional, insofar as they create executive boards and commissions with legislative members, in violation of Miss Const Art 1 § 2, and, accordingly, named legislators could not constitutionally perform any of the executive functions of those boards and commissions; moreover, §§ former 27-103-1, 29-5-1, 57-1-3, 43-13-107, 25-53-7, 25-9-109, and 49-5-61, are unconstitutional insofar as they mandate legislative appointments to executive offices. Alexander v. State ex rel. Allain, 441 So. 2d 1329 (Miss. 1983).

§ 57-1-5. Executive director.

(1) The Governor shall, with the advice and consent of the Senate, appoint an executive director who:

(a) Shall have at least a bachelor's degree, and

(b) Shall be an experienced administrator and have at least five (5) years' experience in at least one (1) of the following areas:

(i) Industrial development, or

(ii) Economic development.

(2) The executive director shall be the executive officer of the department in the execution of any and all provisions of this chapter, and his salary shall be fixed by the Governor.

(3) The executive director shall have the following powers and duties:

(a) To formulate the policy of the department regarding the economic and tourist development of the state.

(b) To use and expend any funds from state, federal or private sources coming into the department for the purposes herein provided. State funds appropriated for the department shall be expended in accordance with the regulations governing the expenditures of other state funds.

(c) To implement the duties assigned to the department and consistent with specific requirements of law, including but not limited to:

(i) Support services to include legal, finance, data processing, personnel, communications and advertising, purchasing and accounting;

(ii) Research and planning;

(iii) Outreach, agency liaison and community development;

(iv) Tourism, business travel, and film;

(v) Programs and assistance for existing state business and industry;

(vi) Recruiting new business and industry into the state;

(vii) Fostering and promoting of entrepreneurship and the creation of new business in the state;

(viii) Programs aimed at competing effectively in the international economy by increasing exports of state products and services and by promoting, developing and creating the conditions and programs that will bring about significant increases in investment in the state from other countries;

(ix) Programs relating to the development of ports;

(x) Such other areas as are within the jurisdiction and authority of the department and will foster and promote the economic development of this state;

(xi) Salaries of the associate directors, deputy directors and bureau directors may be set by the executive director of the department. The positions of associate directors, deputy directors and bureau directors shall not be state service positions.

SOURCES: Codes, 1942, § 8936; Laws, 1940, ch. 147; Laws, 1944, ch. 241, § 1; Laws, 1950, ch. 190, § 1; Laws, 1952, ch. 171; Laws, 1960, ch. 142; Laws, 1979, ch. 438, § 4; Laws, 1988, ch. 518, § 28; Laws, 1989, ch. 544, § 41; Laws, 1992, ch. 496, § 37, eff from and after July 1, 1992.

Editor's Note — Laws of 2014, ch. 347, § 1 provides:

"SECTION 1. (1) There is created a Study Committee on Entertainment Industry Investment. The committee shall study the feasibility of creating new state and local incentives to attract economic investment in Mississippi by all sectors of the entertainment industry, including, but not limited to, film, television, video, music, interactive games, and related technologies and services. The committee, at a minimum, shall consider the following:

"(a) Establishing a formal coalition of entertainment industry professionals with ties and loyalties to Mississippi, and recognizing and supporting these individuals as cultural ambassadors for expanding entertainment industry investment;

"(b) Creating a database containing descriptions of land, real property and other tangible and intellectual resources that may be available for entertainment industry development;

"(c) Appointing an advisory subcommittee of the committee, composed of public and private financial professionals, that can advise the committee on alternative methods of financing entertainment industry investment;

"(d) Identifying current incentives for some sectors of the entertainment industry and opportunities for expansion of those and other incentives to all sectors of the industry; and

"(e) Evaluating the feasibility of providing state tax credits for all sectors of the entertainment industry.

"(2) The committee shall report on its study, in the form of proposed legislation entitled the Mississippi Entertainment Investment Act, to the 2015 Regular Session of the Legislature.

"(3) The committee shall be composed of the following fifteen (15) members:

"(a) The Chair of the Tourism Committee of the Mississippi House of Representatives and three (3) other members of the House appointed by the Speaker;

"(b) The Chair of the Tourism Committee of the Mississippi State Senate and three (3) other members of the Senate appointed by the Lieutenant Governor;

"(c) The Executive Director of the Mississippi Development Authority, or his designee;

"(d) The Director of the Mississippi Tourism Division of the Mississippi Development Authority, or his designee;

"(e) The Director of the Mississippi Film Office, or his designee;

"(f) The Director of the Mississippi Tourism Association, or his designee; and

"(g) Three (3) individuals who are employed by three (3) different convention and visitors bureaus in the state, one (1) each from North Mississippi, Central Mississippi and South Mississippi, appointed by the Governor.

"(4) Appointments shall be made within thirty (30) days after the sine die adjournment of the 2014 Regular Session, and within thirty (30) days thereafter on a day to be designated jointly by the Speaker of the House and the Lieutenant Governor, the committee shall meet and organize by selecting from its membership a chair and a vice chair. The vice chair shall also serve as secretary and shall be responsible for keeping all records of the committee. A majority of the members of the committee shall constitute a quorum. In the selection of its officers and the adoption of rules and reports, an affirmative vote of a majority of the committee shall be required. All members shall be notified in writing, by mail or email, at least fifteen (15) days before the date on which a meeting is to be held.

"(5) The committee is authorized to accept funds from any source, public or private, to be expended in implementing its duties under this section.

"(6) To effectuate the purposes of this section, any department, division, board, bureau, commission or agency of the state or any political subdivision thereof, shall, at the request of the chair of the committee, provide such facilities, assistance and data as will enable the committee to properly carry out its duties."

Cross References — Executive Director as member of Hazardous Waste Technical Siting Committee, see § 17-18-11.

Director of Department of Economic and Community Development, or designee, as member of Mississippi University Research Authority, see § 37-147-7.

Duties of department with respect to assisting and promoting recycling industry, see § 49-31-17.

Creation of Department of Economic and Community Development, see § 57-1-52.

Industrial development division over which director may exercise authority, see § 57-1-55.

Marketing division over which director may exercise authority, see § 57-1-65.

Membership of executive director in Mississippi Business Finance Corporation, see § 57-10-167.

Membership of executive director on nuclear waste technical review committee, see § 57-49-11.

JUDICIAL DECISIONS

1. In general.

Chapter 518 of Laws of 1988 abolished any property right that may have existed in favor of plaintiffs, who held positions in Department of Economic Development, in continued employment with Department, regardless of whether any such property right previously existed; state may amend or terminate property interests that it has created, such as employment programs and causes of action, without depriving affected individuals of procedural due process. When state extinguishes, through legislation, property interests, it is said that "legislative determination provides all the process that is due." Buford v. Holladay, 791 F. Supp. 635 (S.D. Miss. 1992), aff'd sub nom. McMurtray v. Hollday, 11 F.3d 499 (5th Cir. 1993).

§ 57-1-7. Department motor vehicle insurance.

The executive director may carry on each motor vehicle of the department property damage insurance and uninsured and underinsured motorists coverage for any physical damage which is sustained by such motor vehicles while such motor vehicles are being operated by a duly authorized department employee in the performance of his official duties. The coverage authorized in this section shall be purchased in a policy or policies written by the agent or agents of an insurance company authorized to do, and doing business, in this state, and the amount of coverage purchased shall be determined by the executive director. Premiums on such policies shall be paid as are other expenses of the department.

SOURCES: Laws, 1998, ch. 547, § 3, eff from and after passage (approved April 13, 1998).

Editor's Note — Former § 57-1-7, [Codes, 1942, § 8936; Laws, 1940, ch. 147; 1944, ch. 241, § 1; 1950, ch. 190, § 1; 1952, ch. 171; 1960, ch. 142] repealed by Laws of 1979, ch. 438, § 22, eff from and after February 1, 1980, provided for the designation of an executive committee of the agricultural and industrial board.

Another former § 57-1-7, enacted by Laws of 1992, ch. 579, § 1, and repealed by its own terms effective from and after July 1, 1993, authorized the executive director to obtain liability and property damage insurance on department motor vehicles, and waived immunity to the extent of insurance coverage.

§ 57-1-9. Repealed.

Repealed by Laws, 1988, ch. 518, § 92, eff from and after July 1, 1988. [Codes, 1942, § 8936-06; Laws, 1944, ch. 241, § 7; Laws, 1962, ch. 173]

Editor's Note — Former § 57-1-9 provided for meetings of the agricultural and industrial board.

§ 57-1-10. Mississippi Development Authority Legislative Oversight Committee created; membership; meetings; compensation; terms of office; vacancies.

(1) There is created the Mississippi Development Authority Legislative Oversight Committee to serve in an advisory capacity to the Mississippi Development Authority ("MDA") regarding matters under the jurisdiction of the MDA. The committee shall consist of six (6) members, two (2) members to be appointed by the Governor, two (2) Senators to be appointed by the Lieutenant Governor and two (2) Representatives to be appointed by the Speaker of the House of Representatives. The committee shall have no jurisdiction or vote on any matter within the jurisdiction of the MDA.

(2) The committee shall meet quarterly and may meet at other times specified by the chairman of the committee.

(3) A quorum of the committee shall consist of four (4) members. The committee shall elect from among its membership a chairman and vice chairman.

(4) The MDA shall not be required to submit to the committee any information that it considers confidential or proprietary, or anything the disclosure of which may negatively affect a project it has under consideration.

(5) Members of the committee who are not legislators, state officials or state employees shall be compensated at the per diem rate authorized by Section 25-3-69 and shall be reimbursed in accordance with Section 25-3-41 for mileage and actual expenses incurred in the performance of their duties. Legislative members of the committee shall be paid from the contingent expense funds of their respective houses in the same manner as provided for committee meetings when the Legislature is not in session. However, no per diem or expense for attending meetings of the committee may be paid to legislative members of the committee while the Legislature is in session. No committee member may incur per diem, travel or other expenses unless previously authorized by vote, at a meeting of the committee, which action shall be recorded in the official minutes of the meeting. Nonlegislative members shall be paid from any funds made available to the committee for that purpose.

(6) The terms of the legislative members of the committee shall expire at the end of their terms of office, and the Governor's appointees shall serve for a term concurrent with the term of office of the appointing Governor. Any vacancy on the advisory committee shall be filled by appointment by the original appointing authority for the remainder of the members' unexpired term.

SOURCES: Laws, 2005, 3rd Ex Sess, ch. 1, § 38, eff from and after July 1, 2005.

§ 57-1-11. Rules and regulations.

The executive director is hereby authorized and empowered to promulgate and put into effect all reasonable rules and regulations that he may deem necessary to carry out the provisions of Sections 57-1-1 through 57-1-51, not inconsistent herewith.

SOURCES: Codes, 1942, § 8936-10; Laws, 1944, ch. 241, § 9; Laws, 1988, ch. 518, § 29, eff from and after July 1, 1988.

§ 57-1-12. Mississippi Development Authority to file annual report describing all assistance provided under the Advantage Mississippi Initiative.

The Mississippi Development Authority shall file an annual report with the Governor, Secretary of the Senate and the Clerk of the House of Representatives not later than July 1, 2001, and each year thereafter, describing all assistance provided under Laws, 2000, Second Extraordinary Session, Chapter 1.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 60, eff from and after passage (approved August 30, 2000.)

Editor's Note — Laws, 2000, 2nd Ex Sess, ch. 1, § 1 provides:
"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'. "

§ 57-1-12.1. Mississippi Development Authority to file quarterly reports regarding the net economic impact of incentives or assistance authorized under Sections 1 through 37 of Chapter 1, Laws of 2005, Third Extraordinary Session.

The Mississippi Development Authority shall prepare and file a quarterly report with the Secretary of State regarding the net economic impact on the state as a result of incentives or other forms of assistance authorized under Sections 1 through 37 of Chapter 1, Laws of 2005, Third Extraordinary Session, the number of enterprises benefited and the number of jobs created. Each report shall estimate the number of jobs created or retained at each enterprise or business as a result of the incentives or other forms of assistance authorized under Sections 1 through 37 of Chapter 1, Laws of 2005, Third Extraordinary Session.

SOURCES: Laws, 2005, 3rd Ex Sess, ch. 1, § 59, eff from and after July 1, 2005.

Editor's Note — Section 1 of Chapter 1, Laws of 2005, Third Extraordinary Session, is codified as Section 57-93-1.

§ 57-1-12.2. Mississippi Development Authority to file annual report regarding tax credits, loans, rebates and grants made, approved or awarded as result of negotiations involving economic development projects; contents.

(1) The Mississippi Development Authority (MDA) shall file an annual report with the Governor, Secretary of State, Secretary of the Senate and the

Clerk of the House of Representatives not later than October 1 of each year regarding all tax credits, loans, rebates and grants made, approved or awarded by MDA as a result of negotiations involving an economic development project. The report shall contain the following information:

(a) The total amount of incentives approved or awarded;

(b) The total amount of loans made by MDA;

(c) The total amount of grants awarded by MDA; and

(d) A description of standard terms for each loan program.

(2) With respect to each client that receives or is awarded a tax credit, loan, rebate or grant referred to in subsection (1) of this section, the report shall include:

(a) The name and county of operation of the recipient;

(b) The amount of the loan, rebate or grant;

(c) The purpose of the loan, rebate or grant;

(d) The number of employees that the client agreed to hire, retain or train;

(e) The amount of the financial investment that the client expects to make in this state as a result of the economic development project; and

(f) A list of projects that have met contractual requirements and have been closed out by MDA.

(3) The Department of Revenue shall provide MDA with the tax information that is required to be included in this report.

SOURCES: Laws, 2014, ch. 517, § 7, eff from and after July 1, 2014.

§ 57-1-13. Plans for advertising and developing state.

It shall be the duty of the executive director to prepare and perfect plans for the advertisement and development of the state in such manner and through such means as he may deem proper and within such appropriations as shall be made for expenditure.

SOURCES: Codes, 1942, § 8936-01; Laws, 1940, ch. 147; Laws, 1944, ch. 241, § 2; Laws, 1988, ch. 518, § 30, eff from and after July 1, 1988.

Cross References — Publicity and advertising program, see § 57-1-17.

§ 57-1-14. Confidentiality of client information concerning development projects.

(1) Any records of the Department of Economic and Community Development which contain client information concerning development projects shall be exempt from the provisions of the Mississippi Public Records Act of 1983 for a period of two (2) years after receipt of the information by the department.

(2) Confidential client information in public records held by the department shall be exempt from the provisions of the Mississippi Public Records Act of 1983 during the period of review and negotiation on a project proposal and

for a period of thirty (30) days after approval, disapproval or abandonment of the proposal not to exceed one (1) year by the department in writing.

SOURCES: Laws, 1989, ch. 524, § 21; Laws, 1990, ch. 502, § 5, eff from and after July 1, 1990.

Editor's Note — Section 57-1-54 provides that the Mississippi Development Authority shall be the Department of Economic and Community Development, and that whenever the term "Mississippi Department of Economic and Community Development," "Mississippi Department of Economic Development," or any variation thereof, appears in any law the same shall mean the Mississippi Development Authority.

Laws of 1989, ch. 524, § 36, provides:

"SECTION 36. The repeal or amendment of this act shall not reduce the terms of any tax reduction, special tax incentive or financial assistance agreed upon pursuant to official action by the Department of Economic Development, the State Tax Commission or other appropriate agency of the state or political subdivision thereof prior to the effective date of such repeal or amendment.

Cross References — Mississippi Public Records Act of 1983, see §§ 25-61-1 et seq.

§ 57-1-15. Interstate and federal cooperation; Economic Development Fund.

The department is hereby authorized to cooperate and coordinate with economic development commissions, travel and other similar commissions and boards, and/or other similar agencies of other states, the federal government, and with county, municipal and regional economic development, travel and other similar commissions or boards, or other agencies thereof, for the purposes of securing economic development within the State of Mississippi, and to accomplish this purpose, the department may contract for, receive and expend, state, federal and other funds; and to that end, there is hereby created within the department a special fund designated as the "Economic Development Fund," to be kept separate and apart from all other funds and into which all funds received for the above-stated purposes shall be deposited and which funds are not appropriated by the State of Mississippi.

SOURCES: Codes, 1942, § 8936-02; Laws, 1940, ch. 147; Laws, 1944, ch. 241, § 3; Laws, 1958, ch. 512; Laws, 1966, ch. 233, §§ 1, 2; Laws, 1988, ch. 518, § 31, eff from and after July 1, 1988.

§ 57-1-16. ACE Fund; creation; qualifications for assistance; rules and regulations.

(1) As used in this section:

(a) "Extraordinary economic development opportunity" means a new or expanded business or industry which maintains a strong financial condition and minimal credit risk and creates substantial employment, particularly in areas of high unemployment.

(b) "Local economic development entities" means state institutions of higher learning or public or private nonprofit local economic development entities including, but not limited to, chambers of commerce, local authorities, commissions or other entities created by local and private legislation or districts created pursuant to Section 19-5-99.

(c) "MDA" means the Mississippi Development Authority.

(2)(a) There is hereby created in the State Treasury a special fund to be designated as the ACE Fund, which shall consist of money from any public or private source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund. The purpose of the fund shall be to assist in maximizing extraordinary economic development opportunities related to any new or expanded business or industry or to assist a local unit of government as authorized in subsection (5) of this section. Such funds may be used to make grants to local economic development entities to assist any new or expanding business or industry that meets the criteria provided in this section when such assistance aids the consummation of a project within the State of Mississippi, or to make grants to a local unit of government as authorized in subsection (5) of this section.

(b) Monies in the fund which are derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA in providing assistance under this section through the use of general obligation bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each grant by the MDA. Reimbursement of reasonable actual and necessary costs for a grant shall not exceed three percent (3%) of the proceeds of bonds issued for such grant. Monies authorized for a particular grant may not be used to reimburse administrative costs for unrelated grants. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(3) The MDA shall establish a grant program to make grants from the ACE Fund created under this section. Local economic development entities may apply to the MDA for a grant under this section in the manner provided for in subsection (4) of this section. Local units of government may apply to the MDA for a grant under this section in the manner provided in subsection (5) of this section.

(4)(a) Any business or industry desiring assistance from a local economic development entity under this section shall submit an application to the local economic development entity which shall include, at a minimum:

(i) Evidence that the business or industry meets the definition of an extraordinary economic development opportunity;

(ii) A demonstration that the business or industry is at an economic disadvantage by locating the new or expanded project in the county;

(iii) A description, including the cost, of the requested assistance;

(iv) A description of the purpose for which the assistance is requested;

(v) A two-year business plan;

(vi) Financial statements or tax returns for the three (3) years immediately prior to the application;

(vii) Credit reports on all persons or entities with a twenty percent (20%) or greater interest in the business or industry; and

(viii) Any other information required by the MDA.

(b) The MDA shall require that binding commitments be entered into requiring that:

(i) The minimum requirements of this section and such other requirements as the MDA considers proper shall be met; and

(ii) If such requirements are not met, all or a portion of the funds provided by this section as determined by the MDA shall be repaid.

(c) Upon receipt of the application from a business or industry, the local economic development entity may apply to the MDA for assistance under this section. Such application must contain evidence that the business or industry meets the definition of an extraordinary economic development opportunity, a demonstration that the business or industry is at an economic disadvantage by locating the new or expanded project in the county, a description, including the cost, of the requested assistance, and a statement of what efforts have been made or are being made by the business or industry for securing or qualifying for other local, state, federal or private funds for the project.

(d) The MDA shall have sole discretion in the awarding of ACE funds, provided that the business or industry and the local economic development entity have met the statutory requirements of this section. However, in making grants under this section, the MDA shall attempt to provide for an equitable distribution of such grants among each of the congressional districts of this state in order to promote economic development across the entire state.

(5)(a) The MDA may make grants to local units of government to assist the local unit of government in purchasing real property for the benefit of an existing industry that commits to maintain a minimum of one thousand three hundred (1,300) jobs for a minimum of ten (10) years after the date the grant is made.

(b) Any local unit of government seeking a grant authorized under this subsection shall apply to MDA. The application shall contain such information as the MDA may require.

(c) The MDA shall require that binding commitments be entered into requiring that:

(i) The minimum requirements of this subsection and such other requirements as the MDA considers proper shall be met; and

(ii) If such requirements are not met, all or a portion of the funds provided by this section as determined by the MDA shall be repaid.

(6) The MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation of this section. However, before the implementation of any such rules and regulations, they shall be submitted to a committee consisting of five (5) members of the Senate Finance Committee and five (5) members of the House of Representatives Ways and Means Committee, appointed by the respective committee chairmen.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 4; Laws, 2005, 3rd Ex Sess, ch. 1, § 34; Laws, 2008, ch. 506, § 4; Laws, 2014, ch. 518, § 2, eff from and after July 1, 2014.

Editor's Note — Laws, 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'. "

Amendment Notes — The 2014 amendment added "or to assist a local unit of government as authorized in subsection (5) of this section" at the end of the third sentence and "or make grants to a local unit of government as authorized in subsection (5)" in the last sentence in (2)(a); added the last sentence in (3); and added (5).

Cross References — Mississippi Administrative Procedures Law, see §§ 25-43-1.101 et seq.

Preparation and filing of quarterly report regarding net economic impact on state as result of incentive or assistance authorized under Sections 1 through 37 of Chapter 1, Laws of 2005, Third Extraordinary Sessions, see § 57-1-12.1.

Mississippi Development Authority to accomodate and support any entity using funds made available under Sections 1 through 37 of Chapter 1, Laws of 2005, Third Extraordinary Session wishing to have program of diversity in contracting, etc., see § 57-1-58.

Business or other entity convicted of intentionally hiring illegal immigrants is ineligible to receive any form of assistance made available under Sections 1 through 57 of Chapter 1, Laws of 2005, Third Extraordinary Sessions, see § 57-1-371.

§ 57-1-17. Publicity and advertising; research laboratory.

It shall be the duty of the executive director and he is hereby authorized to prepare and execute a program of publicity and advertising that will bring into favorable notice the industrial, commercial, recreational, educational and social advantages, opportunities, possibilities, resources, farm and dairy products, and facilities of the state, and in the preparation and execution of such program he may use any funds which may be appropriated or otherwise made available for the purpose of carrying out the provisions of Sections 57-1-1 through 57-1-51. The department may erect, equip, maintain and operate a research laboratory for the purpose of finding new and additional uses for Mississippi products and is authorized and empowered to receive, use and expend any funds from state, federal or private sources which it may receive for that purpose.

SOURCES: Codes, 1942, § 8936-03; Laws, 1940, ch. 147; Laws, 1944, ch. 241, § 4; Laws, 1988, ch. 518, § 32, eff from and after July 1, 1988.

Cross References — Plans for advertising and developing state, see § 57-1-13.

§ 57-1-18. Small Municipalities and Limited Population Counties Fund; definitions; creation; grant program; qualifications for assistance; promulgation of rules and regulations; annual report.

(1) For the purposes of this section, the following terms shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Limited population county" means a county in the State of Mississippi with a population of thirty thousand (30,000) or less according to the most recent federal decennial census at the time the county submits its application to the MDA under this section.

(b) "MDA" means the Mississippi Development Authority.

(c) "Project" means highways, streets and other roadways, bridges, sidewalks, utilities, airfields, airports, acquisition of equipment, acquisition of real property, development of real property, improvements to real property, and any other project approved by the MDA.

(d) "Small municipality" means a municipality in the State of Mississippi with a population of ten thousand (10,000) or less according to the most recent federal decennial census at the time the municipality submits its application to the MDA under this section. The term "small municipality" also includes a municipal historical hamlet as defined in Section 17-27-5.

(2)(a) There is hereby created in the State Treasury a special fund to be designated as the "Small Municipalities and Limited Population Counties Fund," which shall consist of funds appropriated or otherwise made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used to make grants to small municipalities and limited population counties or natural gas districts created by law and contained therein to assist in completing projects under this section.

(b) Monies in the fund which are derived from proceeds of bonds issued under Sections 1 through 16 of Chapter 538, Laws of 2002, Sections 1 through 16 of Chapter 508, Laws of 2003, Sections 55 through 70 of Chapter 1, Laws of 2004 Third Extraordinary Session, Sections 1 through 16 of Chapter 482, Laws of 2006, Section 15 of Chapter 580, Laws of 2007, Section 1 of Chapter 503, Laws of 2008, Section 42 of Chapter 557, Laws of 2009, Section 38 of Chapter 533, Laws of 2010, Section 41 of Chapter 480, Laws of 2011, Section 30 of Chapter 569, Laws of 2013, or Section 4 of Chapter 530, Laws of 2014 may be used to reimburse reasonable actual and necessary costs incurred by the MDA in providing assistance related to a project for which funding is provided under this section from the use of proceeds of such bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each project by the MDA. Reimbursement of reasonable actual and necessary costs for a project shall not exceed three percent (3%) of the proceeds of bonds issued for such project. Monies authorized for a particular project may not be used to reimburse administrative costs for unrelated projects. Reimbursements under this subsection shall satisfy any applicable federal tax law requirements.

(3) The MDA shall establish a grant program to make grants to small municipalities and limited population counties from the Small Municipalities and Limited Population Counties Fund. Grants made under this section to a

small municipality or a limited population county shall not exceed Two Hundred Fifty Thousand Dollars ($250,000.00) during any grant period established by the MDA. A small municipality or limited population county may apply to the MDA for a grant under this section in the manner provided for in this section.

(4) A small municipality or limited population county desiring assistance under this section must submit an application to the MDA. The application must include a description of the project for which assistance is requested, the cost of the project for which assistance is requested, the amount of assistance requested and any other information required by the MDA.

(5) The MDA shall have all powers necessary to implement and administer the program established under this section, and the department shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

(6) The MDA shall file an annual report with the Governor, the Secretary of the Senate and the Clerk of the House of Representatives not later than December 1 of each year, describing all assistance provided under this section.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 57; Laws, 2002, ch. 538, § 17; Laws, 2003, ch. 508, § 17; Laws, 2004, 3rd Ex Sess., ch. 1, § 71; Laws, 2006, ch. 482, § 17; Laws, 2007, ch. 580, § 16; Laws, 2008, ch. 503, § 2; Laws, 2009, ch. 557, § 43; Laws, 2010, ch. 533, § 39; Laws, 2011, ch. 390, § 2; Laws, 2011, ch. 480, § 42; Laws, 2013, ch. 569, § 31; Laws, 2014, ch. 530, § 5, eff from and after July 1, 2014.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (2)(b). The words "Section 15 of Chapter 580, Laws of 2007" were inserted preceding "or Section 1 of Chapter 503, Laws of 2008." The Joint Committee ratified the correction at its August 5, 2008, meeting.

Section 2 of ch. 390, Laws of 2011, effective from and after passage (approved March 11, 2011), amended this section. Section 42 of ch. 480, Laws of 2011, effective from and after passage (approved April 6, 2011), also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Legislative Committee on Compilation, Revision and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at its July 13, 2011, meeting.

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'. "

Laws of 2004, 3rd Ex Sess, ch. 1, § 228 provides:

"SECTION 228. Except as otherwise provided in this act, any entity using funds authorized and made available under Chapter 1, 2004 Third Extraordinary Session, is authorized, in its discretion, to set aside not more than twenty percent (20%) of such funds for expenditure with small business concerns owned and controlled by socially and economically disadvantaged individuals. The term "socially and economically disadvantaged individuals" shall have the meaning ascribed to such term under Section 8(d) of the Small Business Act (15 USCS, Section 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this section."

Laws of 2010, ch. 533, § 52, effective from and after passage (approved April 16, 2010) provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

Laws of 2014, ch. 530, § 47 provides:

"SECTION 47. Section 46 of this act shall take effect and be in force from and after January 1, 2014, Section 39 of this act shall take effect and be in force from and after its passage, and the remainder of this act shall take effect and be in force from and after July 1, 2014."

Amendment Notes — The 2013 amendment inserted "or Section 30 of Chapter 569, Laws of 2013" in the first sentence of (2)(b) and made a related change.

The 2014 amendment inserted "or Section 4 of Chapter 530, Laws of 2014" and made a minor stylistic change in (2)(b).

§ 57-1-19. Municipal enterprises; certificate of public convenience and necessity.

The executive director is charged with the duty of making effective the declared public policy of the state and municipalities as hereinabove set forth, and for that purpose is hereby authorized and empowered to determine whether the public convenience and necessity require that any municipality shall have the right to acquire lands, and thereon to erect enterprises, and expansions thereof and thereto, conditioned, however, that the municipality, if so required by him, shall take security upon the existing building or buildings at the time of entering into contract for the expansion of existing buildings and facilities, and to operate them and to dispose of or rent, let or lease such lands and enterprises. Each municipality within this state shall have the right to apply to the executive director for a certificate of public convenience and necessity as to whether the general welfare requires that such municipality enter into a given enterprise. In determining whether such certificate shall be issued, the executive director may hold public hearings or private hearings, make such investigations as he may desire; and he shall have power to summon witnesses, administer oaths, hear testimony and make a record of all things had and done at such hearing or investigation, and may issue such certificates of convenience and necessity as he deems advisable.

SOURCES: Codes, 1942, § 8936-07; Laws, 1944, ch. 241, § 8; Laws, 1958, ch. 531, § 3; Laws, 1988, ch. 518, § 33, eff from and after July 1, 1988.

Cross References — Necessity of certificate of public convenience and necessity as provided in this section for solid and hazardous waste treatment projects, see § 17-17-101.

Municipal public utilities generally, see §§ 21-27-1 et seq.

Joinder of separate school district and municipality in establishing industrial enterprises, see §§ 57-1-71 et seq.

Joinder of other municipalities and supervisors' district in which situated with municipality in establishing industrial enterprises, see §§ 57-1-101 et seq.

Application for certificate of public convenience and necessity by municipality seeking to develop industrial park or district, see § 57-5-11.

Application for certificate of public convenience and necessity by municipality seeking to develop plans for industrial plant training and recruitment, see § 57-9-7.

Financing industrial enterprise projects by municipal loans, see §§ 57-41-1 et seq.

Necessity of obtaining certificate of public convenience and necessity before making municipal loans to finance industrial enterprise projects, see § 57-41-3.

ATTORNEY GENERAL OPINIONS

While Section 21-17-1 authorizes a municipality to acquire property for municipal buildings, this statute does not authorize a municipality to acquire a building for the purpose of conveying it to an industrial prospect as contemplated by Section 57-1-19 et seq. and 57-1-301 et seq. Creekmore, December 20, 1996, A.G. Op. #96-0660.

Sections 57-1-19 through 57-1-51 provide for the establishment, acquisition, and sale of municipal enterprises for the purpose of economic and industrial development, and these statutes include provisions for the issuance of bonds to finance the acquisition of properties and construction of enterprises by municipalities. Wolfe, Feb. 2, 2001, A.G. Op. #2001-0018.

RESEARCH REFERENCES

Am Jur. 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions §§ 189 et seq.

§ 57-1-21. Municipal enterprises; issuance of certificate.

The executive director shall investigate, find and determine upon application of any municipality therefor, as to whether a certificate of public convenience and necessity shall be issued to such municipality to engage in any of the enterprises deemed essential under the above declared public policy for the economic development and advancement of such municipality; and in considering and determining whether or not such certificate shall issue, the executive director shall find and determine affirmatively the following:

(a) That there are sufficient natural resources readily and economically available for the operation of the particular enterprise for at least ten (10) years, but in no event less than the period of time for which any bonds may be issued for acquiring or constructing such enterprise.

(b) That there is available a labor supply to furnish at least one and one-half workers between the ages of eighteen (18) and fifty (50) for each operative job in such enterprise within an area of twenty-five (25) miles from the proposed location.

(c) That there are adequate property values and suitable financial conditions so that the total bonded indebtedness of the municipality, solely for the purposes authorized by Sections 57-1-1 through 57-1-51, shall not exceed twenty percent (20%) of the total assessed valuation of all the property in the municipality.

When the executive director shall have determined the foregoing facts favorably, he is authorized and empowered, having due regard to the promotion of the public policy and the general welfare herein declared, to issue or refuse to issue a certificate of public convenience and necessity to the municipality to engage in such enterprise. If and when such certificate is issued, it shall authorize the particular municipality to acquire, to own, to operate, to sell, to convey, to let, to lease or to rent the particular enterprise found suited to the general welfare of that municipality; but the certificate shall expire in twelve (12) months from its date unless within that time such enterprise shall have been established, subject, however, to any delays necessitated by any legislation or acts of God, delaying the establishment of the enterprise. In no event shall the executive director authorize any municipality actually to operate any enterprise, unless he shall further find and determine that the enterprise is well conceived, has a reasonable prospect of success, will provide proper economic development and employment, will add materially to the general welfare of the municipality, and will not become a burden upon the taxpayers of the municipality.

If and when a certificate is issued, the executive director therein shall fix and determine: (a) the extent and the amount to which the municipality may issue bonds or make expenditures for such enterprise; (b) what property may be acquired therefor; (c) the terms upon which such acquisition may be had; (d) what expenditures may be made, and the construction of buildings, and of equipment with its installation; and (e) the method of operation of the enterprise by the municipality. If the governing board of the municipality fails or refuses to follow the requirements made by the executive director in the certificate, then the members of the governing board of the municipality voting for such failure or refusal shall be individually and personally liable, and liable upon their official bonds for any loss that the municipality may sustain by reason of such failure or refusal to follow the requirements, and in addition may be compelled by injunction to comply with such requirements.

If the executive director refuses to issue a certificate, an appeal of such refusal may be taken by the municipality to the Governor in the manner and within the time that the Governor shall establish by executive order.

SOURCES: Codes, 1942, § 8936-08; Laws, 1944, ch. 241, § 9; Laws, 1988, ch. 518, § 34, eff from and after July 1, 1988.

Cross References — Necessity of certificate of public convenience and necessity as provided in this section for solid and hazardous waste treatment projects, see § 17-17-101.

Additional finding required for petition for joint certificate of public convenience and necessity, see § 57-1-101.

Necessity that municipalities operating under agriculture and industry program obtain certificates of public convenience and necessity, see § 57-3-3.

Issuance of certificate of public convenience and necessity to municipality seeking to develop industrial park or district, see § 57-5-13.

Issuance of certificate of public convenience and necessity to municipality seeking to develop plans for industrial plant training and recruitment, see § 57-9-7.

Necessity of obtaining certificate of public convenience and necessity before making municipal loans to finance industrial enterprise projects, see § 57-41-3.

Authority of port commission to assist municipality possessing certificate of public convenience and necessity in establishing industries, see § 59-1-23.

§ 57-1-23. Municipal enterprises; power conferred to acquire lands, erect buildings, etc.

(1) The several municipalities of this state, including counties, judicial districts of counties having two judicial districts, supervisors districts, cities, towns or villages, whether existing under special charters or otherwise, hereinabove called "municipalities," are hereby authorized and empowered to make effective the provisions herein contained, for the general welfare of the state and of the several municipalities thereof. When and after such municipality shall have obtained therefor a certificate of public convenience and necessity, under the provisions of Sections 57-1-19 and 57-1-21, then it may acquire land by purchase, gift, eminent domain or otherwise for any such enterprise so thus approved, and may directly or by contract, such contract to be entered into and governed as now provided by law for other public contracts entered into by boards of supervisors, erect such buildings and structures as may be essential for such enterprise, may obtain for such enterprise the requisite appliances and equipment, and may operate such enterprise. The power thus to do is hereby generally conferred upon all such municipalities, and shall be in addition to all other powers now possessed without in anywise limiting or circumscribing them.

(2) Any city or town in this state situated in a county bordering on the Mississippi River and situated not more than five miles from the proposed industrial site or location of any industrial plant or proposed site of such plant, authorized to be established, built and erected under the terms of Sections 57-1-1 through 57-1-51, such distance to be measured between the corporate line of any such city or town nearest such proposed site and the boundary of such proposed site nearest such corporate line, is hereby authorized and empowered to join with another municipality and subdivisions of government, as defined hereinabove, in the creation, establishment, acquisition, ownership, control, sale, lease, disposition and disposal of any such plant, plant site and/or other property, real and personal, acquired, owned, or otherwise possessed and controlled under authority of Sections 57-1-1 through 57-1-51, notwithstanding the fact that the said, or proposed, plant, plant site, and/or other property, real or personal, is situated in another supervisors district other than the supervisors district in which such city or town is situated. In all cases provided for in this subsection, all authority, powers, privileges and rights provided for in Sections 57-1-1 through 57-1-51, shall be and are hereby conferred upon and vested in such city or town and such other municipality as may join therewith, as herein authorized.

SOURCES: Codes, 1942, § 8936-09; Laws, 1944, ch. 241, § 12; Laws, 1958, ch. 526, § 1; Laws, 1960, ch. 144.

Cross References — Necessity of certificate of public convenience and necessity as provided in this section for solid and hazardous waste treatment projects, see § 17-17-101.

Jurisdiction and powers of county board of supervisors generally, see § 19-3-41.

Powers of municipality generally, see § 21-17-1.

§ 57-1-25. Municipal enterprises; election.

The governing board of any municipality desiring to enter into the plan herein authorized, after receiving a certificate of public convenience and necessity from the executive director, as provided by Sections 57-1-19 and 57-1-21, by resolution spread upon its minutes, shall declare its intention of entering into such plan, and shall call an election to be held in the manner now provided by law for holding county or municipal elections, and shall fix in such resolution a date upon which such an election shall be held in the municipality, of which not less than three (3) weeks' notice shall be given by the clerk of such board, by a notice in a newspaper published in the municipality once each week for three (3) consecutive weeks preceding the same, or if no newspaper is published in the municipality, then by posting a notice for three (3) weeks preceding the election at three (3) public places in the municipality. At such election, all qualified electors of the municipality may vote, and the ballots used shall have printed thereon a brief statement of the purpose of the board to enter into the plan hereby authorized and to issue bonds therefor or to expend other municipal funds available together with the words "For the Proposed Enterprise," and the words "Against the Proposed Enterprise," and the voter shall vote by placing a cross (X) opposite his choice of the proposition. Should the election provided for herein result in favor of the proposed plan and bond issue or expenditure by at least sixty percent (60%) of those voting in favor of the plan, provided that the total number of votes cast in the election shall be not less than thirty percent (30%) of the qualified electors of the territory included in the proposal, then the governing board may proceed to exercise the authority granted under the provisions of Sections 57-1-1 through 57-1-51 within three (3) years after the date of such election or within three (3) years after final, favorable determination of any litigation affecting the industrial plan or bond issue. If such election results unfavorably to the proposition, then no second or other election shall be ordered or held until the board shall determine that such election may be held.

Where the separate supervisors district or districts of a county indicate a desire to enter into the plan herein authorized, but not to affect the remainder of the county, then the board of supervisors shall direct the holding of such election only in the supervisors district or districts affected, and the board of supervisors is hereby authorized to carry out the provisions of Sections 57-1-1 through 57-1-51 for such separate supervisors district or districts.

In the event the proposal to be voted on at the election required herein includes bonds to be issued covering a supervisors district or districts, but not the entire county, includes a town or city of a population of more than five hundred, (500) as well as territory outside the corporate limits of such town or city and the proposed enterprise is to be located in such town or city or within one (1) mile of the corporate limits thereof, the qualified electors voting in the election residing outside the corporate limits of the town or city shall vote separately from those residing in such town or city.

All qualified electors shall vote at their usual voting places and in event the usual voting place of electors residing outside the corporate limits of such town or city is in such town or city, such elector shall vote in a separate ballot box provided for the purpose, and the officers holding the election shall make separate returns of the results of the vote of those residing within the town or city and those residing outside such town or city.

Unless sixty percent (60%) of the qualified electors residing in such town or city voting in the election and sixty percent (60%) of the qualified electors residing outside such town or city voting in such election shall vote for the proposed bond issue, computed and declared separately, the proposed bond issue shall be declared as disapproved.

It shall be the duty of the county election commissioners to provide necessary ballot boxes, separate voting lists containing the names of electors residing within and without the corporate limits of towns and cities when such is required by the proposal submitted, and records for the conduct of the election in accordance with the requirements of this section.

And in event the proposal to be voted on at the election required by this section includes bonds to be issued covering the entire county and the proposed industry is to be located in a town or city or within one (1) mile of the corporate limits thereof, the qualified electors voting in the election residing outside the corporate limits of the city or town, and whose regular voting place is within the corporate limits of the city or town, shall vote separately from those residing in such city or town, in separate ballot boxes to be provided for such purposes, and the votes so cast shall be counted separately.

At the election, unless sixty percent (60%) of the qualified electors voting in the election and residing within the corporate limits of the city or town in which the proposed enterprise is to be located, or the town or city within one (1) mile of the proposed location of the enterprise shall vote for the proposed bond issue and sixty percent (60%) of all the other qualified electors of the county voting in the election shall vote for the proposed bond issue, computed and declared separately, the proposed bond issue shall be declared as disapproved. All qualified electors voting in such election shall vote at their usual voting precincts, and the county election commissioners shall provide necessary boxes, separate voting lists containing the names of electors residing within and without the corporate limits of the town or city wherein such enterprise is proposed to be located, or such town or city within one (1) mile of the proposed location of the enterprise, and records for the conduct of the election in accordance with the requirements of this section.

SOURCES: Codes, 1942, § 8936-11; Laws, 1944, ch. 241, § 10; Laws, 1952, ch. 370; Laws, 1966, ch. 234, § 1; Laws, 1988, ch. 518, § 35, eff from and after July 1, 1988.

Cross References — County bonds generally, see §§ 19-9-1, et seq.

Municipal bonds generally, see §§ 21-33-301 et seq.

Form and terms of bonds issued by municipalities for the purpose of effectuating the provisions of §§ 57-1-1 through 57-1-51, see § 57-1-29.

Election where separate school district and municipality seek to establish industrial enterprise, see § 57-1-73.

Election where municipalities and certain supervisors' district seek to establish industrial enterprise, see § 57-1-103.

Election where supervisors' districts of adjacent counties seek to establish industrial enterprise, see § 57-1-133.

Elections under Industrial Park Law of 1960, see § 57-5-19.

JUDICIAL DECISIONS

1. In general.
2. Necessity of election.
3. Election requirements.

1. In general.

The unconstitutionality of a law must appear beyond a reasonable doubt before the court would be justified in striking down the same after it has come to the court with the sanction of both the legislative and the executive branches of the state government. Burge v. Board of Supvrs., 213 Miss. 752, 57 So. 2d 718 (1952).

2. Necessity of election.

City of Hattiesburg could lawfully proceed with issuance of general obligation industrial park bonds under Chapter 886, Local and Private Laws of Mississippi, Regular Session 1984, which dispenses with the necessity for a bond issue election, except upon petition of 10 percent of the city's registered voters. Brandon v. City of Hattiesburg, 493 So. 2d 324 (Miss. 1986).

With respect to the provision of this section [Code 1942, § 8936-11] as to separate supervisors' districts indicating a desire to enter into a plan, the legislature has left it to the sound judgment and discretion of the board of supervisors to determine how and when a desire to enter into a plan has been sufficiently indicated to justify calling an election. Burge v. Board of Supvrs., 213 Miss. 752, 57 So. 2d 718 (1952).

3. Election requirements.

The provisions of chapter 241, Laws of 1944, provide only for the election to carry by two-thirds of those voting in the municipality and by two-thirds of those voting outside the municipality, considered separately as two voting units, provided a majority of the qualified electors inside the municipality and a majority of those outside of the municipality shall vote in the election; and they do not require that two-thirds of those voting in each of the supervisors' districts shall vote in favor of the bond issue to render the same valid, as required by chapters 245 (see Code 1942, § 8938-02) and 320 (see Code 2942, § 8937), Laws, of 1946, and chapter 520 (see Code 1942, § 8936-31), Laws of 1950. Burge v. Board of Supvrs., 213 Miss. 752, 57 So. 2d 718 (1952).

In a proceeding for the issuance of bonds for the purpose of constructing a building for the manufacture of garments, it was not necessary to get two-thirds vote for all those voting in each of the supervisors' districts in order to approve the plan. Burge v. Board of Supvrs., 213 Miss. 752, 57 So. 2d 718 (1952).

ATTORNEY GENERAL OPINIONS

Section 57-1-25, requires a certificate and an election in order for a municipality to issue bonds for a municipal enterprise as described in the chapter. Creekmore, December 20, 1996, A.G. Op. #96-0660.

§ 57-1-27. Bonds and certain contracts subject to approval of executive director.

Before any bonds shall be issued under Sections 57-1-1 through 57-1-51 by any municipality, or any contract shall be made to dispose of any public property hereunder acquired, the same must be approved in its entirety by the executive director, but such approval shall not in any way render the State of Mississippi liable.

SOURCES: Codes, 1942, § 8936-12; Laws, 1944, ch. 241, § 11; Laws, 1988, ch. 518, § 36, eff from and after July 1, 1988.

Cross References — Necessity of certificate of public convenience and necessity as provided in this section for solid and hazardous waste treatment projects, see § 17-17-101.

ATTORNEY GENERAL OPINIONS

While a municipality must obtain a Certificate of Public Convenience and Necessity to issue bonds for a project pursuant Section 57-1-27, a municipality does not have to obtain a Certificate of Public Convenience and Necessity to obtain a capital improvements revolving loan pursuant to Section 57-2-301 et seq. Creekmore, December 20, 1996, A.G. Op. #96-0660.

§ 57-1-29. Issuance of municipal bonds; form; terms; tax levy.

A municipality, having been authorized by the executive director, as herein provided, may expend, for acquiring and operating such municipal enterprise under rules and regulations adopted by the executive director, any funds of the municipality then on hand or available and not already appropriated or necessary for other municipal purposes. A municipality, after the terms and conditions have been fixed by the executive director and with his approval, is hereby authorized from and after July 1, 1944, to issue bonds of such municipality for the purpose of effectuating the provisions of Sections 57-1-1 through 57-1-51 and promoting thereby the public policy of this state in bringing about the general welfare of its people. When, if and to the extent that a bond issue shall be approved by the executive director, then the same may be authorized by the governing authority of the municipality, and to secure such bond issue the municipality may mortgage or pledge property used and useful for the industrial enterprise; and the income therefrom, and confer upon the holders of such bonds the rights of a first mortgage bondholder. Such bond issue shall be first approved by the executive director, and thereafter shall be authorized by resolution or ordinance of the governing board of the municipality in such form and with such provisions, terms and conditions as may be fixed in the resolution or ordinance not inconsistent with the provisions of Sections 57-1-1 through 57-1-51. Present limitations on the amount of other bonds that may be issued by such municipality shall not apply to bonds issued hereunder other than as herein otherwise provided. All such bonds shall be lithographed or engraved, and printed in two (2) or more colors to prevent counterfeiting, and shall be in sums not less than One Thousand Dollars ($1,000.00) or multiples thereof, and shall be numbered in a regular series from one (1) upward, be executed by the manual or facsimile signature of the president of the board of supervisors and the clerk of such board; or by the mayor and clerk of the municipality, and either of such clerks shall impress the county or municipal seal, as the case may be, upon each bond as it is issued. At least one (1) signature on each bond shall be a manual signature, as specified in the issuing resolution. The coupons may bear only the facsimile signatures of such president and clerk of the board of supervisors or such mayor and clerk, as the case may be. Every such bond shall specify on its face the purpose for which it was issued, the total amount authorized to be issued, and each shall be made payable to bearer, and on request of any holder of such bonds the same may be registered as to principal by the clerk of the issuing board. The governing authorities shall annually levy a tax, or shall otherwise provide funds sufficient for paying interest on such bonds, and the bonds maturing within one (1) year and shall provide a sinking fund for the redemption of the bonds issued. Such bonds shall be issued maturing annually with all maturities not longer than twenty (20) years with not less than one-fiftieth (1⁄50) of the total issue to mature each year during the first five (5) years of the life of the bonds, and not less than one-twenty-fifth (1⁄25) of the total issue to mature annually during the succeeding ten-year period of the life of the bonds, and the remainder to be amortized, as to the principal and interest, into approximately equal payments, one (1) payment to mature during each year for the remaining life of the bonds. Such bonds shall not bear a greater overall maximum rate of interest than that allowed in Section 75-17-101, Mississippi Code of 1972. No bond shall bear more than one (1) rate of interest; each bond shall bear interest from its date to its stated maturity date at the interest rate specified in the bid; all bonds of the same maturity shall bear the same rate of interest from date to maturity; all interest accruing on such bonds so issued shall be payable semiannually or annually, except that the first interest coupon attached to any such bond may be for any period not exceeding one (1) year.

No interest payment shall be evidenced by more than one (1) coupon and neither cancelled nor supplemental coupons shall be permitted; the lowest interest rate specified for any bonds issued shall not be less than seventy percent (70%) of the highest interest rate specified for the same bond issue. The interest rate of any one (1) interest coupon shall not exceed the maximum interest rate allowed on such bonds.

Each interest rate specified in any bid must be in multiples of one-eighth of one percent (1⁄8 of 1%) or in multiples of one-tenth of one percent (1⁄10 of 1%).

The denomination, form and place of payment shall be fixed in the authorization therefor, and for the payment thereof the full faith, credit and resources of the municipality shall be pledged and a tax levied on all taxable property in the municipality, adequate to pay principal and interest on such bonds as the same fall due. Proceeds of such bonds shall be placed in the municipal treasury as a special fund and shall be used for no other purpose than the purpose set forth in the original resolution, and any officer diverting or assisting to divert any such fund to any other purpose than the purpose originally set forth in the resolution of the governing authority of the municipality shall be guilty of a misdemeanor, shall be punished accordingly, and shall also be liable both personally and on his official bond for such diversion, together with the costs of collection and reasonable attorney's fees. The Attorney General is authorized to proceed by action for injunction or mandamus to require compliance with the original resolution by any officer or municipal board.

SOURCES: Codes, 1942, § 8936-13; Laws, 1944, ch. 241, § 13; Laws, 1959, ch. 18; Laws, 1969, Ex. Sess. ch. 50, § 1; Laws, 1970, ch. 501, § 1; Laws, 1971, ch. 480, § 1; Laws, 1972, ch. 533, § 1; Laws, 1975, ch. 426; Laws, 1976, ch. 449; Laws, 1977, ch. 417; Laws, 1978, ch. 494, § 1; Laws, 1979, ch. 456, § 1; Laws, 1980, ch. 494; Laws, 1981, ch. 458, § 1; Laws, 1982, ch. 434, § 25; Laws, 1983, ch. 494, § 26; Laws, 1983, ch. 541, § 30; Laws, 1988, ch. 518, § 37, eff from and after July 1, 1988.

Cross References — Uniform system for issuance of negotiable notes or certificates of indebtedness, see § 17-21-51.

County bonds generally, see §§ 19-9-1 et seq.

Municipal bonds generally, see §§ 21-33-301 et seq.

Exemption of bonds issued under this section from general limitation of municipal indebtedness, see § 21-33-303.

Duties of executive director as to issuance of bonds, see § 57-1-33.

Financing industrial enterprise projects through municipal loans, see §§ 57-41-1 et seq.

Limitation on the maximum interest rate to maturity on obligations issued under the provisions of this section, see § 75-17-101.

Imposition of standard state assessment in addition to court imposed fines or other penalties for misdemeanor violation, see § 99-19-73.

RESEARCH REFERENCES

ALR. Payment of attorneys' services in defending action brought against officials individually as within power or obligation of public body. 47 A.L.R.5th 553.

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 1 et seq.

§ 57-1-31. Compensation of attorneys employed in issuance of bonds.

The board of supervisors of any county, or the governing authorities of any municipality or other political subdivision, shall have the power, in its discretion, to pay reasonable compensation to attorneys who may be employed by it in the matter of the issuance of bonds authorized to be issued by the provisions of this chapter, the drafting of all orders and resolutions in connection therewith, and passing upon the validity thereof. However, in no instance shall the attorney's fees paid for the issuance or refunding of such bonds exceed the following amounts, to-wit:

On all such bond issues the attorney's fees shall not exceed one percent (1%) of the first five hundred thousand dollars ($500,000.00); one-half percent (½%) of all over five hundred thousand dollars ($500,000.00) and not more than one million dollars ($1,000,000.00); and one-fourth percent (¼%) of all amounts in excess of one million dollars ($1,000,000.00).

As used in this section, the term "municipalities" shall be construed to include any political subdivision of this state authorized to issue bonds under the authority contained in this chapter.

The limitations imposed herein shall not apply to any bond issue upon which a declaration of intent to issue bonds has heretofore been spread upon the minutes of the political subdivision desiring to issue same.

SOURCES: Codes, 1942, § 8936-13.5; Laws, 1968, ch. 297, § 1, eff from and after passage (approved August 1, 1968).

§ 57-1-33. Duties of executive director as to issuance of bonds.

When the executive director authorizes any municipality to issue bonds under the provisions of Sections 57-1-1 through 57-1-51, he shall find and determine the total amount of bonds to be issued. He shall fix the maturity dates of the bonds consistent with the provisions of the aforesaid sections. He shall determine the amount of taxes necessary to be levied and collected annually to retire the bonds and pay interest coupons and to create a sinking fund for the payment of the bonds and interest so that the annual tax levy shall be uniform throughout the period for which the bonds are issued. He shall require the municipality to report annually to him payments made on the bonds and on interest, with the dates of payments, and to report the amount passed to the sinking fund, together with a list and amount of the bonds remaining outstanding for purposes of the aforesaid sections, and a failure so to do shall make the members of the governing board guilty of a misdemeanor and punishable accordingly. All of such reports shall be permanent public records of the department.

SOURCES: Codes, 1942, § 8936-14; Laws, 1944, ch. 241, § 15; Laws, 1988, ch. 518, § 38, eff from and after July 1, 1988.

§ 57-1-35. Sale of bonds.

The bonds hereinabove provided for shall be sold by the governing authority of the municipality at not less than par and accrued interest at public sale held after notice of such sale published at least one (1) time at least five (5) days before such sale in a newspaper of general circulation in the municipality.

SOURCES: Codes, 1942, § 8936-15; Laws, 1944, ch. 241, § 18, eff on and after July 1, 1944.

§ 57-1-37. Issuance of additional bonds by municipality.

In the case any municipality shall have initiated any industry as provided in Sections 57-1-19 and 57-1-21, and thereafter said municipality lacks the requisite funds for completion by reason of emergency which was wholly unforeseen, then upon the approval of the commission, upon the same terms and conditions as herein set forth, additional bonds may be authorized.

SOURCES: Codes, 1942, § 8936-16; Laws, 1944, ch. 241, § 17, eff on and after July 1, 1944.

Cross References — Limitation on bonded indebtedness of municipality, see § 21-33-303.

§ 57-1-39. Exemption from taxation of bonds.

All bonds issued pursuant to Sections 57-1-1 through 57-1-51 and all interest thereon or income therefrom shall be exempt from all taxation except gift and inheritance taxes. Necessary taxes levied and collection for the payment of these bonds and interest thereon shall not be considered or accounted in any limitation on the powers of the municipality to tax except as otherwise herein provided.

SOURCES: Codes, 1942, § 8936-17; Laws, 1944, ch. 241, § 18, eff on and after July 1, 1944.

Cross References — Municipal enterprises exempt from taxation, see § 57-1-47.

§ 57-1-41. Investment of surplus sinking funds in bonds.

Any municipality having surplus sinking funds under the provisions of Sections 57-1-1 through 57-1-51 may, in the discretion of the governing board of such municipality, invest said sinking funds by purchasing bonds of any county or municipality of this state, bonds of the State of Mississippi, or bonds issued by authority of the United States government, except drainage district bonds, provided, that the bonds so purchased shall mature prior to the time when the bonds payable out of the sinking fund hereunder shall fall due.

SOURCES: Codes, 1942, § 8936-18; Laws, 1944, ch. 241, § 14, eff on and after July 1, 1944.

§ 57-1-43. Payment and retirement of bonds; use of surplus income.

Any municipality may use any sinking fund, reserve fund, or surplus fund to purchase any bond hereunder issued, and shall cancel and retire the same when, in the judgment of the governing authorities of such municipality, the interest of such municipality will be subserved thereby. Any surplus income from said enterprise arising through its operation or from its disposition, accruing to the municipality over and above the amount necessary to pay for repairs, replacements, bonds herein authorized which may be issued and interest thereon, may be applied by the governing board of the municipality upon any of the other outstanding debts or obligations of the municipality.

SOURCES: Codes, 1942, § 8936-19; Laws, 1944, ch. 241, § 16, eff on and after July 1, 1944.

§ 57-1-45. Sale, lease, etc., of municipal enterprises.

The several municipalities when and to the extent authorized by the executive director pursuant hereto, are hereby authorized and empowered, if they so desire, by and through their governing board, to sell, lease or otherwise dispose of such enterprise or enterprises, in whole or in part, on such terms and conditions and with such safeguards as will best promote and protect the public interest, and are authorized, acting with the approval of the executive director by and through their respective governing boards, to transfer title or possession to such industry or to any property utilized therein, by warranty deed, lease, bill of sale, contract or other customary business instrument, in the same manner and to the same extent, when so thus authorized by the executive director, that any private corporation, association or person may now contract, with reference to such property of a similar nature, provided that such disposition shall not be made except by the affirmative vote of at least two-thirds (⅔) of the members elected to the governing body of such municipality, and all votes shall be of record. All income from any lease or contract for the operation or from the disposition of such industrial enterprise shall be paid into the bond sinking fund provided for the bonds issued under the provisions of Sections 57-1-1 through 57-1-51 for the retirement of such bonds and the interest thereon, and such income or proceeds shall not be used by the municipality for any other purpose except as to disposition of surplus income authorized above, and shall be subject to all of the provisions hereof relative to such sinking fund.

SOURCES: Codes, 1942, § 8936-20; Laws, 1944, ch. 241, § 19; Laws, 1988, ch. 518, § 39, eff from and after July 1, 1988.

Cross References — Sale or lease of municipally owned public utility system or property, see § 21-27-33.

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As matter of policy, there was no reason for Section 57-1-45 to be inapplicable to leasing or sale of Project that was initiated and financed pursuant to industrial development bond statutes where purchase of leasehold by city (utilizing proceeds of General Obligation Note) was consummated in order to market Project to an industrial user so that Project could fulfill statutory purpose of industrial development statutes; therefore, it was not necessary to comply with 21-17-1. Collins, Jan. 5, 1994, A.G. Op. #93-0991.

The proposed lease of an industrial building, financed by a city with a loan under the Capital Improvements Loan Program of the Mississippi Department of Economic and Community Development pursuant to the provisions of Section 57-1-301 et seq. may be undertaken as set forth by Section 57-1-45. Phillips, June 26, 1998, A.G. Op. #98-0348.

A city may purchase a building for the amount of the outstanding balance of a CAP loan if the determination is made that the entire original cost of the property has been recouped, that the other factual determinations provided in this section are made, and that the sale is made with the approval of the executive director of the Mississippi Development Authority. Tucker, Feb. 11, 2005, A.G. Op. 05-0016.

RESEARCH REFERENCES

Am Jur. 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions §§ 485 et seq., 493 et seq.

§ 57-1-47. Municipal enterprises exempt from taxation.

All enterprises acquired, constructed or owned by any of said municipalities under the provisions of Sections 57-1-1 through 57-1-51, are declared the public property of each of said municipalities, and as such, shall not be subject to taxation.

SOURCES: Codes, 1942, § 8936-21; Laws, 1944, ch. 241, § 20, eff on and after July 1, 1944.

Cross References — Bonds issued pursuant to §§ 57-1-1 through 57-1-51 tax exempt, see § 57-1-39.

For another provision relating to tax liability of industrial enterprises and notes issued to finance such enterprises, see § 57-41-13.

§ 57-1-49. Assistance by port authorities.

Any port commission or authority created by law, operating in any county or municipality of this state, is authorized and empowered to assist and cooperate with such county or municipality to effectuate the purposes of Sections 57-1-1 through 57-1-51.

SOURCES: Codes, 1942, § 8936-22; Laws, 1944, ch. 241, § 21, eff on and after July 1, 1944.

Cross References — Harbor or port commissions generally, see §§ 59-1-1 et seq.

§ 57-1-51. Construction of Sections 57-1-1 through 57-1-51.

The provisions of Sections 57-1-1 through 57-1-51 shall not repeal or impair any law now in effect, except as therein specifically provided, but shall exist as a separate, several, independent, additional and cumulative method for giving to the people of Mississippi the fulfillment of the public policy of encouraging the promotion of economic development of new and existing "enterprises." Nor shall the aforesaid sections or any part thereof repeal any of the provisions of private or special municipal charters, nor affect, limit or restrict the right of any municipality, now operating under special charter, to amend said charter pursuant to the provisions of Section 21-17-9, Mississippi Code of 1972, which section shall apply to Sections 57-1-1 through 57-1-51.

SOURCES: Codes, 1942, § 8936-04; Laws, 1940, ch. 147; Laws, 1944, ch. 241, § 5; Laws, 1958, ch. 531, § 1.

§ 57-1-52. Creation of Department of Economic and Community Development; organization; executive director; division directors.

(1) There is hereby created the Mississippi Department of Economic and Community Development, whose principal offices shall be located in Jackson, Mississippi.

(2) The Mississippi Department of Economic and Community Development shall be organized into the following offices:

(a) Office of Economic Development;
(b) Office of Community Development;
(c) Office of Support Services.

(3) The department shall be headed by an executive director, who shall be appointed by and serve at the pleasure of the Governor. The appointment of the executive director shall be made with the advice and consent of the Senate. The executive director may assign to the appropriate offices such powers and duties as deemed appropriate to carry out the department's lawful functions.

(4) The executive director of the department shall appoint heads of offices, who shall serve at the pleasure of the executive director. The executive director shall have the authority to organize the offices established by subsection (2) of this section as deemed appropriate to carry out the responsibilities of the department. The organization charts of the department shall be presented annually with the budget request of the Governor for review by the Legislature.

SOURCES: Laws, 1989, ch. 544, § 37; Laws, 1990, ch. 522, § 35, eff from and after July 1, 1990.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-1-53. Department designated agency for receipt of federal funds; coordination of functions relating to economic development and tourism.

The department is designated as the single state agency to receive and expend any federal funds made available for matters within the jurisdiction of the department.

The department shall coordinate all functions of state government related to economic development and tourism within the jurisdiction of the department.

SOURCES: Laws, 1979, ch. 438, § 5; Laws, 1988, ch. 518, § 40; Laws, 1989, ch. 544, § 43, eff from and after July 1, 1989.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Transfer of functions of Division of Job Development and Training to this department, see § 7-1-351.

Department of Economic and Community Development to continue to use stationery or other supplies of predecessor agency until supplies depleted, see § 7-17-33.

University Research Center, see §§ 37-141-1 et seq.

Correctional industries work program, see §§ 47-5-501 et seq.

Powers and duties of department, see § 57-1-55.

Inclusion in small business consortium, see § 57-10-157.

Role of the Department of Economic and Community Development in the Mississippi Craft Stores, see § 57-11-19.

Mississippi Major Economic Impact Authority division created in Department of Economic and Community Development, see § 57-75-7.

Administration of Emerging Crops Fund for purposes of Mississippi Farm Reform Act, see § 69-2-13.

Disbursement of proceeds of general obligation bond sales under Mississippi Farm Reform Act, see § 69-2-31.

Attorney General's representation of Department of Economic and Community Development in issuing, selling and validating bonds under Mississippi Farm Reform Act, see § 69-2-33.

§ 57-1-54. Transfer of powers and duties of Department of Economic and Community Development to Mississippi Development Authority.

The Mississippi Development Authority shall be the Department of Economic and Community Development and shall retain all powers and duties granted by law to the Mississippi Department of Economic and Community Development and wherever the term "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" appears in any law the same shall mean the Mississippi Development Authority. The Mississippi Development Authority may continue to refer to itself as the Mississippi Department of Economic and Community Development for as long as it may deem necessary. The Executive Director of the Mississippi Development Authority may assign to the appropriate divisions such powers and duties as he deems appropriate to carry out its lawful duties.

Nothing in the Mississippi Executive Reorganization Act of 1989 [Laws, 1989, Chapter 544] shall be construed to eliminate or change in any manner the duties, functions or operations of the planning and development districts heretofore created by executive order of the Governor.

SOURCES: Laws, 1989, ch. 544, § 38; Laws, 2000, 2nd Ex Sess, ch. 1, § 3, eff from and after passage (approved Aug. 30, 2000.)

Editor's Note — For a complete distribution of sections of the Mississippi Executive Reorganization Act of 1989 (Laws, 1989, ch. 544) see Allocation of Acts Table in the Statutory Tables Volume.

Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'. "

Cross References — General provisions regarding the reorganization of the executive branch of government, see §§ 7-17-1 et seq.

Creation of Department of Economic and Community Development, see § 57-1-52.

§ 57-1-55. General powers and duties of Department of Economic and Community Development.

(1) The Department of Economic and Community Development shall have the following general powers and duties: To develop and manage programs which enhance the climate for economic growth through assistance to private sector businesses, local communities and individuals, and through an extensive national and international marketing effort.

(2) The Department of Economic and Community Development shall have the following general powers and duties with respect to economic development:

(a) To plan, supervise and direct an active program of solicitation of industries to locate within the state;

(b) To prepare, maintain and disseminate information which is needed by companies in evaluating site locations;

(c) To consult with, advise and assist prospective industries wishing to locate within the state;

(d) To encourage new or expanding industries, which will add to the economy, to locate within the state;

(e) To maintain a coordinated liaison function with other development groups, including state and federal agencies, and planning and development districts, utility companies, chambers of commerce and railroads;

(f) To assist communities and counties within the state in preparation for economic growth;

(g) To assist new and existing business and industry and encourage their development and expansion;

(h) To plan and conduct a nationwide advertising program promoting the state to prospective industry. Any contract entered into for such purposes shall be advertised, bid and accepted in accordance with the same procedure as prescribed for the advertisement and acceptance of bids for the purchase of commodities and contracts for public purchases under Chapter 7, Title 31, Mississippi Code of 1972;

(i) To work with economic development agencies of the federal government in areas of industrial development and provide information to industrial prospects regarding the availability of federal funds and assistance;

(j) To work with the Department of Corrections, pursuant to the provisions of Section 47-5-501 et seq., in identifying and evaluating acceptable industries and businesses and in acting as an agent of the Department of Corrections by communicating with such concerns and aggressively soliciting their participation in the Correctional Industries Work Program;

(k) To perform related work as required;

(*l*) To disseminate information about financial and other programs of the Department of Economic and Community Development that will assist in the creation or expansion of industries processing wood products in this state;

(m) To market processed and raw agricultural products domestically and abroad;

(n) To aid in the establishment of business incubation centers by private business interests, not for profit corporations, and/or governmental entities. The department may provide funds by contract for the establishment of business incubation centers and may contract for space in which business incubation centers will be located. Business incubation centers are defined as facilities and support services that encourage the establishment of successful small businesses by providing a short-term sheltered environment. The department may solicit and accept grants and other financial aid or support from private or public sources to aid in the development of business incubation centers. In addition, advice and assistance to established business incubation centers may be provided by the department; and

(o) To employ licensed real estate brokers and appraisers necessary for the industrial development of any real estate under the ownership or control of the Department of Economic and Community Development. Any contract entered into for such purposes shall be advertised, bid and accepted in accordance with the same procedure as prescribed for the advertisement and acceptance of bids for the purchase of commodities and contracts for public purchases under Chapter 7, Title 31, Mississippi Code of 1972.

SOURCES: Laws, 1979, ch. 438, § 6; Laws, 1983, ch. 409, § 9; Laws, 1987, ch. 482, § 27; Laws, 1988, ch. 518, § 41; Laws, 1989, ch. 544, § 44; Laws, 1999, ch. 444, § 1, eff from and after passage (approved March 19, 1999.)

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Public purchases generally, see §§ 31-7-1 et seq.

Mississippi Development Authority to display submissions received by Mississippi Procurement Technical Assistance Program for projects funded by the American Recovery and Reinvestment Act (Public Law 111-5) on unique Internet Web page accessible to public, see § 31-7-13.

University Research Center, see §§ 37-141-1 et seq.

Responsibilities of the department regarding Mississippi Miss Hospitality, Inc., see § 57-1-69.

Co-operation with the Mississippi Commission on Wildlife, Fisheries and Parks, see § 57-15-3.

Cooperation with the Food Technology Laboratory, see § 57-19-13.

Cooperation with the research institute of pharmaceutical sciences, see § 57-23-13.
Energy development fund, see § 57-39-39.
Membership on the nuclear waste technical review committee, see § 57-49-11.
Mississippi Urban Research Center, see § 57-55-17.
Mississippi Technology Transfer Office, see § 57-56-1.
Mississippi Export Trade Development Act, see §§ 57-57-1 et seq.
Department's responsibilities regarding the Mississippi Business Investment Act, see §§ 57-61-1 et seq.
Establishment of a Mississippi International Trade Institute, see §§ 57-65-1.
Mississippi Minority Business Enterprise Act, see §§ 57-69-1 et seq.
Membership on the Council of State Agencies on Agriculture, see § 69-1-61.
Consultation with the Public Service Commission concerning the long range needs for expansion of facilities and the generation of electricity, see § 77-3-14.

§ 57-1-56. Occupational Information Coordinating Committee.

The Occupational Information Coordinating Committee shall be located within the Department of Economic and Community Development and shall develop and implement an occupational information system for vocational education, employment and training programs.

SOURCES: Laws, 1989, ch. 544, § 50, eff from and after July 1, 1989.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Vocational education generally, see §§ 37-31-1 et seq.
Creation of Department of Economic and Community Development, see § 57-1-52.

§ 57-1-57. Study to determine existence of disparity in number of qualified minority contractors.

The Mississippi Development Authority shall conduct and prepare, or shall contract for the preparation of, a study to determine if there is a significant statistical disparity in the total number of qualified minority contractors of goods and services doing business in the State of Mississippi and the actual number of such minority contractors with whom the State of Mississippi, or with whom a prime contractor with the State of Mississippi, has contracted to provide goods and services.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1 § 58, eff from and after passage (approved Aug. 30, 2000.)

Editor's Note — A former § 57-1-57 [Laws, 1979, ch. 438, §§ 7 and 8] created the division of tourism and development in the Department of Economic Development. That section was repealed by Laws of 1988, ch. 518, § 92, eff from and after July 1, 1988.

Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'. "

§ 57-1-58. Policy of the Mississippi Development Authority with regard to programs of diversity in contracting for entities using funds made available under Sections 1 through 37 of Chapter 1, Laws of 2005, Third Extraordinary Session.

It is the policy of the Mississippi Development Authority and the Mississippi Development Authority is authorized to accommodate and support any entity using funds authorized and made available under Sections 1 through 37 of Chapter 1, Laws of 2005, Third Extraordinary Session that wishes to have a program of diversity in contracting, and/or that wishes to do business with or cause its prime contractor to do business with Mississippi companies, including those companies that are small business concerns owned and controlled by socially and economically disadvantaged individuals. The term "socially and economically disadvantaged individuals" shall have the meaning ascribed to that term under Section 8(d) of the Small Business Act (15 USCS 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this section.

SOURCES: Laws, 2005, 3rd Ex Sess, ch. 1, § 58, eff from and after July 1, 2005.

Editor's Note — Section 1 of Chapter 1, Laws of 2005, Third Extraordinary Session, is codified as Section 57-93-1.

Federal Aspects — The Small Business Act is codified at 15 U.S.C.S. §§ 631 et seq.

§ 57-1-59. General powers and duties of Mississippi Development Authority with respect to tourism.

The Mississippi Development Authority shall have the following general powers and duties with respect to tourism:

(a) To promote and advertise the image of Mississippi both within and without the boundaries of this state;

(b) To promote and advertise fairs and similar activities of interest to tourists and the traveling public;

(c) To promote and advertise the use of wildlife and natural areas by tourists and the traveling public;

(d) To promote and advertise the use of state recreational and park facilities by tourists and the traveling public;

(e) To promote and advertise all resources of the State of Mississippi as attractions to tourists and the traveling public;

(f) To develop for all agencies of state government the necessary promotional and advertising materials needed to promote all facilities and programs which may be of interest to travelers and tourists;

(g) To maintain an educational awareness program for the citizens of the state to constantly encourage increased development of activities of interest to tourists and the traveling public;

(h) To develop and maintain an information services system to adequately guide tourists and the traveling public within the boundaries of the state;

(i) To develop and maintain an extensive media program to adequately inform the national and international consumer about Mississippi;

(j) To enter into contracts and other agreements with local tourism commissions or similar entities for the purpose of developing regional strategies for tourism promotion. The Mississippi Development Authority, in conjunction with the formulation of regional strategies for tourism promotion, may require that local tourism commissions or similar entities enter into agreements with the authority as a condition for receiving any state grants to promote tourism; and

(k) To develop programs and projects promoting the state's heritage, history, culture, literature and arts, including the positive recovery of the state after damages caused by natural disasters, and demonstrating the state's attractiveness as a tourism destination for those and other reasons.

SOURCES: Laws, 1979, ch. 438, § 9; Laws, 1988, ch. 518, § 42; Laws, 1990, ch. 502, § 6; Laws, 2005, ch. 339, § 1; Laws, 2010, ch. 533, § 7, eff from and after passage (approved April 16, 2010.)

Editor's Note — Laws of 2010, ch. 533, § 2 provides:

"SECTION 2. The Legislature recognizes that the tourism industry stimulates economic development throughout the State of Mississippi in the same manner as that resulting from the location of an industrial, scientific or educational project in the state and that promoting tourism programs and projects is equally as important as attracting certain industries to the state. The Legislature finds that an integral component of the tourism industry in the state consists of programs and projects promoting the heritage, history and culture of the state and demonstrating the state's attractiveness as a tourism destination for those reasons. Therefore, creating and enhancing opportunities for visitors to Mississippi to learn about and appreciate the state's heritage, history and culture, including literature and the arts, is a priority for the Division of Tourism Development of the Mississippi Development Authority."

Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

Laws of 2014, ch. 528, § 4, provide:

"SECTION 4. The Division of Tourism of the Mississippi Development Authority shall prepare and file a report with the Legislature regarding the impact of the tax exemption provided in Section 27-65-101(rr) on the tourism industry in this state and other economic development activities. The report shall be filed with the Clerk of the Mississippi House of Representatives and Secretary of the Mississippi State Senate not later than December 31, 2015."

Cross References — County and municipality promotion of trade, conventions and tourism, see Chapter 3, Title 17.

Regional tourist promotion councils, see Chapter 27, Title 57.

§ 57-1-60. Grants to finance, promote and advertise local tourist attractions.

The Department of Economic and Community Development, in its discretion, may establish a program of grants to be matched by tourism entities in the state to finance, promote and advertise local tourist attractions. Monies committed to the program of grants shall not lapse into the State General Fund at the end of a fiscal year. Any program of grants established under this section shall be in addition to those grants authorized by Chapter 27, Title 57, Mississippi Code of 1972.

SOURCES: Laws, 1993, ch. 592, § 1, eff from and after passage (approved April 13, 1993).

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — County and municipality promotion of trade, conventions and tourism, see Chapter 3, Title 17.

Regional tourist promotion councils, see Chapter 27, Title 57.

§ 57-1-61. Transfer of functions of travel and tourism department of agricultural and industrial board.

The staff and resources of the travel and tourism department of the agricultural and industrial board shall be, and are hereby transferred to the department of economic development.

SOURCES: Laws, 1979, ch. 438, § 10, eff from and after February 1, 1980.

Editor's Note — Section 57-1-2 provides that the Agricultural and Industrial Board and the Department of Economic Development shall mean the Mississippi Development Authority.

Section 57-1-54 provides for the transfer of powers and duties of the Department of Economic Development to the Mississippi Development Authority.

§ 57-1-63. Transfer of powers and duties of state agencies relating to promotion and advertising of tourism.

It is the intent of the Legislature that all powers and duties of any state agency relating to the promotion and advertising of tourism which are not provided for by statute shall be transferred to and vested in the department.

SOURCES: Laws, 1979, ch. 438, § 12; Laws, 1988, ch. 518, § 43, eff from and after July 1, 1988.

Editor's Note — Section 57-1-2 provides that the Agricultural and Industrial Board and the Department of Economic Development shall mean the Mississippi Development Authority.

Section 57-1-54 provides for the transfer of powers and duties of the Department of Economic Development to the Mississippi Development Authority.

§ 57-1-64. Selling advertising and tourism promotional information through various marketing outlets; Mississippi Development Authority Tourism Advertising Fund created.

(1) The Mississippi Development Authority is authorized to sell advertising and other tourism promotional information through the Mississippi Development Authority Internet website and other marketing outlets, and to enter into agreements with tourism associations and similar entities for the purpose of making and facilitating sales through the use of such entities. Revenues received from such sales shall be placed into the special fund created in subsection (2) of this section.

(2) There is created a special fund in the State Treasury to be known as the Mississippi Development Authority Tourism Advertising Fund which shall consist of monies from any source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund may be used by the Mississippi Development Authority for the purpose of paying costs incurred in connection with the purchase of Internet advertising and other promotional information and materials related to Mississippi tourism resources and activities.

(3) The Mississippi Development Authority shall have all powers necessary to implement and administer the provisions of this section.

SOURCES: Laws, 2011, ch. 480, § 43, eff from and after passage (approved April 6, 2011.)

Cross References — State agencies and public officials providing information about the agency or office to the public on a website are required to regularly review and update that information, see § 25-1-117.

§ 57-1-65. General powers and duties with respect to marketing.

The Mississippi Department of Economic Development shall have the following general powers and duties with respect to marketing:

(a) To promote and stimulate the development of new markets for Mississippi products and goods.

(b) To encourage the establishment of industrial operations to process agricultural and forestry raw products to an end-product stage, ready for sale to the markets of the nation and the world; and

(c) To coordinate all studies in the State of Mississippi concerned with the development of markets for Mississippi products and goods.

SOURCES: Laws, 1979, ch. 438, § 17; Laws, 1988, ch. 518, § 44, eff from and after July 1, 1988.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-1-66. Production, licensing, etc., of promotional publications, materials, etc.; disposition of proceeds from licensing or sale.

The Department of Economic and Community Development is authorized to produce publications, booklets, brochures, directories, materials and merchandise for the purposes of promoting and marketing Mississippi and assisting businesses through the provision of information in printed form or on computer disk, and to license or sell such items for a fee; however, no public entity or any agency thereof established pursuant to the laws of this state shall be charged a fee for the provision of such items. The funds which are received from the licensing or sale of items described herein shall be paid into a special revolving fund which is hereby established in the State Treasury. Monies in this fund shall be expended as appropriated by the Legislature. Any monies remaining in the special fund at the close of a fiscal year shall not lapse into the State General Fund.

SOURCES: Laws, 1990, ch. 502, § 1; Laws, 1991, ch. 584, § 5, eff from and after July 1, 1991.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Deposit in fund of allocation application fees required under Private Activity Bonds Act, see §§ 31-23-59 and 31-23-61.

Revenue from sale of merchandise on premises of highway hospitality stations to be paid into special revolving fund established pursuant to this section, see § 65-31-3.

§ 57-1-67. Planning and development district offices and directors.

The Mississippi Department of Economic Development, pursuant to contractual agreements with individual planning and development districts, may assign field office staff of the department to a planning and development district office. Planning and development district directors may be consulted by the department as any annual work programs for field office staff so assigned are prepared. Any such work programs shall be designed to address issues and projects of mutual interest to the department and districts and to the accomplishment of their respective economic development missions.

SOURCES: Laws, 1988, ch. 518, § 45, eff from and after July 1, 1988.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-1-68. Program of grants to finance and promote local economic development.

The Department of Economic and Community Development, in its discretion, may establish a program of grants to be matched by economic development entities in the state to finance and promote local economic development. Monies committed to the program of grants shall not lapse into the State General Fund at the end of a fiscal year.

SOURCES: Laws, 1995, ch. 519, § 1, eff from and after passage (approved April 3, 1995).

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-1-69. Cooperation with Mississippi Miss Hospitality, Inc., Miss Mississippi Pageant, Inc., and Mrs. Mississippi-America Pageant, Inc.

The Department of Economic and Community Development is authorized to cooperate with Mississippi Miss Hospitality, Inc., in the production of the Mississippi Miss Hospitality Pageant and with Miss Mississippi Pageant, Inc., in the production of the Miss Mississippi Pageant, and with Mrs. Mississippi-America Pageant, Inc., in the production of the Mrs. Mississippi Pageant, and in defraying expenses incurred by Miss Hospitality and Miss Mississippi and Mrs. Mississippi when making official appearances to represent this state, by expending in furtherance of such purposes any money appropriated or otherwise made available to the department therefor. Money received by the department for such purposes shall be deposited into a special fund which is hereby created in the State Treasury. Unexpended amounts remaining in such special fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in such special fund shall be deposited to the credit of the special fund.

SOURCES: Laws, 1988, ch. 518, § 72; Laws, 1990, ch. 401, § 2, eff from and after July 1, 1990.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Persons selected as Miss Mississippi, Miss Hospitality and Mrs. Mississippi to be official nongovernmental representation of the State, see § 57-1-69.

§ 57-1-70. Miss Mississippi, Miss Hospitality and Mrs. Mississippi as official nongovernmental representatives of state.

The person selected as Miss Mississippi in the annual pageant sponsored by Miss Mississippi Pageant, Inc., and the person selected as Miss Hospitality in the annual Mississippi Miss Hospitality Pageant, and the person selected as Mrs. Mississippi in the annual Mrs. Mississippi Pageant, shall be the official nongovernmental representatives of the State of Mississippi, and shall be the only persons selected in pageants in the state who are recognized by the state as its official representatives in appearances made at functions, ceremonies or other activities on behalf of the state or for the promotion or goodwill of the state.

SOURCES: Laws, 1990, ch. 401, § 1, eff from and after July 1, 1990.

JOINDER OF SEPARATE SCHOOL DISTRICT AND MUNICIPALITY IN ESTABLISHING INDUSTRIAL ENTERPRISES

Sec.	
57-1-71.	Declaration of intention; petition for certificate.
57-1-73.	Issuance of certificate; election.
57-1-75.	Issuance of bonds; contracts.
57-1-77.	Execution of bonds; pledge of full faith and credit.
57-1-79.	Depository.
57-1-81.	Tax levy.
57-1-83.	Rights and powers of municipality.

§ 57-1-71. Declaration of intention; petition for certificate.

Any municipality located in two adjacent counties which forms a part of a municipal separate school district the territory of which is located in two adjacent counties which desires to enter into the establishment of an enterprise under the provisions of Sections 57-1-1 through 57-1-51, jointly with the territory forming a part of such municipal separate school district shall, by and through its governing authority, declare its intention of entering into such plan by resolution spread upon its minutes and shall jointly with the boards of supervisors of the counties affected file with the Mississippi Agricultural and

Industrial Board, a petition for certificate of public convenience and necessity in the manner and for the purpose prescribed by Section 57-1-21, and the governing authority of such municipality is authorized to proceed under Sections 57-1-1 through 57-1-51, for and on behalf of the municipality and the municipal separate school district territory the same as if such territory were a part of said municipality.

SOURCES: Codes, 1942, § 8936-31; Laws, 1950, ch. 520, §§ 1-7.

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the 'Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Supplemental authority for participation in projects and issuance of bonds for solid or hazardous waste treatment projects, see §§ 17-17-101 et seq.

Authority of governing board to issue county or municipal bonds for pollution control, see § 49-17-121.

Financing industrial enterprise projects by municipal loans, see §§ 57-41-1 et seq.

RESEARCH REFERENCES

Am Jur. 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions § 192.

§ 57-1-73. Issuance of certificate; election.

Should the certificate of public convenience and necessity be issued by the Mississippi Agricultural and Industrial Board the governing authority of such municipality shall call an election in the municipality and in the territory outside the municipality in the manner and method for calling, conducting and holding elections provided in Section 57-1-25, and should two-thirds of the qualified electors residing in the municipality and voting in the election, and two-thirds of the qualified electors residing in the territory outside the municipality forming a part of the municipal separate school district of which such territory and municipality are a part and voting in the election, vote in favor of the enterprise, such municipal separate school district including the municipality shall be deemed a municipality within the meaning of Sections 57-1-1 through 57-1-51, and shall have all rights, powers and authority to act by and through the governing authority of such municipality granted to municipalities as defined in Sections 57-1-1 through 57-1-51 and by said sections.

SOURCES: Codes, 1942, § 8936-31; Laws, 1950, ch. 520, §§ 1-7.

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Election where municipality seeks to establish industrial enterprise, see § 57-1-25.

Election where municipalities and certain supervisors' district seek to establish industrial enterprise, see § 57-1-103.

Election where supervisors' districts of adjacent counties seek to establish industrial enterprise, see § 57-1-133.

Elections under Industrial Park Law of 1960, see § 57-5-19.

§ 57-1-75. Issuance of bonds; contracts.

The governing authority of the municipality as defined in Sections 57-1-71 and 57-1-73, subject to the the approval of the boards of supervisors of each county having territory involved, may issue such bonds as may be authorized in the election held for the operation of the enterprise, and may make all contracts for the erection of buildings and structures and the acquisition and purchase of lands, and for the operation of such enterprise. It shall not be necessary for contracts entered into by the governing authority of the municipality to be approved by the boards of supervisors of the counties having territory included in such municipal separate school district.

SOURCES: Codes, 1942, § 8936-31; Laws, 1950, ch. 520, §§ 1-7.

Cross References — County bonds generally, see §§ 19-9-1 et seq.

Municipal bonds generally, see §§ 21-33-301 et seq.

Financing industrial enterprise projects through municipal loans, see §§ 57-41-1 et seq.

§ 57-1-77. Execution of bonds; pledge of full faith and credit.

The bonds issued under Section 57-1-75 shall be issued and signed in the manner provided for the issuance of bonds by municipalities by Sections 57-1-1 through 57-1-51, and shall pledge the full faith and credit of the entire municipal separate school district for which said bonds are issued, including the municipality and the territory outside such municipality lying in adjoining supervisors districts of adjacent counties.

SOURCES: Codes, 1942, § 8936-31; Laws, 1950, ch. 520, §§ 1-7.

§ 57-1-79. Depository.

The governing authority of such municipality as defined in Sections 57-1-71 and 57-1-73 shall designate a depository for the funds of the municipality in the same manner as county depositories are designated.

SOURCES: Codes, 1942, § 8936-31; Laws, 1950, ch. 520, §§ 1-7.

Cross References — Designation of depositories, see §§ 27-105-303, 27-105-333.

§ 57-1-81. Tax levy.

On or before the first Monday of September of each year the governing authority of the municipality shall meet and levy a tax sufficient upon the taxable property of the territory, including the municipality, to provide funds for the payment of interest on bonds and the payment of bonds maturing within one year, and to provide a sinking fund for the redemption of any outstanding bonds and shall certify such levy to the boards of supervisors of each of the counties affected, prior to the date on which county tax levies are fixed, and it shall be the duty of the respective boards of supervisors to levy the tax prescribed by the governing authority of the municipality upon the taxable property of the territory, including the municipality located in their respective county. The tax collector of each county shall thereupon collect such tax in the same manner and at the same time as other taxes are collected and shall transmit the proceeds thereof to the governing authority of the municipality for deposit to the proper depository.

SOURCES: Codes, 1942, § 8936-31; Laws, 1950, ch. 520, §§ 1-7.

Cross References — County finance and taxation generally, see Chapter 9, Title 19. Municipality taxation and finance generally, see Chapter 33, Title 21.

§ 57-1-83. Rights and powers of municipality.

For the purpose of operating or engaging in the enterprise as authorized at the election held for that purpose the municipality herein authorized acting by and through its governing authority shall have all the rights, powers and authority granted to municipalities by Sections 57-1-1 through 57-1-51, to act for the territory comprising the municipal separate school district of which such municipality is a part.

SOURCES: Codes, 1942, § 8936-31; Laws, 1950, ch. 520, §§ 1-7.

JOINDER OF OTHER MUNICIPALITIES AND SUPERVISORS DISTRICT IN WHICH SITUATED WITH MUNICIPALITY IN ESTABLISHING INDUSTRIAL ENTERPRISES

SEC.

57-1-101. Declaration of intention; petition for and issuance of certificate.
57-1-103. Election.
57-1-105. Powers and rights of city, town or village and supervisors district.
57-1-107. Contracts.

§ 57-1-101. Declaration of intention; petition for and issuance of certificate.

When a city, town or village and the supervisors district wherein such city, town or village is situated desire to enter jointly into the establishment of an industrial enterprise under the provisions of Sections 57-1-1 through 57-1-51, the governing body of such city, town or village and the board of supervisors of the county in which such supervisors district is situated shall each declare its intention of entering into such plan by resolution spread upon its minutes, and they shall jointly file with the Mississippi Agricultural and Industrial Board, a petition for a joint certificate of public convenience and necessity in the manner and for the purposes prescribed by Section 57-1-21. Such joint petition for such joint certificate of public convenience and necessity shall, in addition to any other information required to be furnished, set out the amount of bonds or other expenditures such city, town or village and such supervisors district propose separately to issue or make for such enterprise. The Mississippi Agricultural and Industrial Board is authorized and empowered to issue or refuse to issue such joint certificate of public convenience and necessity in accordance with the provisions of Section 57-1-21, except that such certificate when issued shall be entitled and be a joint certificate of public convenience and necessity. Where such a petition for a joint certificate is filed, the board, in addition to the findings prescribed by Section 57-1-21, shall before it issues such joint certificate also find and determine affirmatively that the aggregate bonded indebtedness of such city, town or village and such supervisors district incurred under the provisions of Sections 57-1-101 through 57-1-107, shall not exceed the aggregate of twenty per cent (20%) of the total assessed valuation of all the property in the city, town or village, computed as in the case of an application by such city, town or village alone, plus twenty percent (20%) of the total assessed valuation of all the property in the supervisors district.

SOURCES: Codes, 1942, § 8936-41; Laws, 1952, ch. 421, §§ 1-4; Laws, 1958, ch. 526, §§ 2-5; Laws, 1960, ch. 212, §§ 1-3.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in the last sentence, substituting, "Sections 57-1-101 through 57-1-107" for "this act." The Joint Committee ratified the correction at its August 5, 2008, meeting.

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Supplemental authority for participation in projects and issuance of bonds for solid or hazardous waste treatment projects, see §§ 17-17-101 et seq.

Authority of governing board to issue county or municipal bonds for pollution control, see § 49-17-121.

Financing industrial enterprise projects by municipal loans, see §§ 57-41-1.

Necessity of obtaining certificate of public convenience and necessity before making municipal loans to finance industrial enterprise projects, see § 57-41-3.

RESEARCH REFERENCES

Am Jur. 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions § 192.

§ 57-1-103. Election.

Should such joint certificate of public convenience and necessity be issued by the Mississippi Agricultural and Industrial Board, the governing authority of such city, town or village shall direct the holding of an election in the manner provided as to it by Section 57-1-25, and the board of supervisors of the county in which such supervisors district is situated shall direct the holding of a separate election in such supervisors district in the manner provided by Section 57-1-25 for such elections. In the event the proposal be approved as required by Section 57-1-25, both in the election for the supervisors district and in the election for the city, town or village, computed and declared separately, then the board of supervisors and the governing authority of such city, town or village, respectively, may issue the bonds authorized by said elections, respectively, as provided by the aforesaid Sections 57-1-1 through 57-1-51.

SOURCES: Codes, 1942, § 8936-41; Laws, 1952, ch. 421, §§ 1-4; Laws, 1958, ch. 526, §§ 2-5; Laws, 1960, ch. 212, §§ 1-3.

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Election where municipality seeks to establish industrial enterprise, see § 57-1-25.

Election where separate school district and municipality seek to establish industrial enterprise, see § 57-1-73.

Election where supervisors' districts of adjacent counties seek to establish industrial enterprise, see § 57-1-133.

Elections under Industrial Park Law of 1960, see § 57-5-19.

Financing industrial enterprise projects through municipal loans, see §§ 57-41-1 et seq.

§ 57-1-105. Powers and rights of city, town or village and supervisors district.

When a city, town or village and the supervisors district wherein such city, town or village is situated join for the establishment of an industrial enterprise under the provisions of Sections 57-1-101 through 57-1-107 they shall be and they are hereby authorized to exercise the powers conferred by Sections 57-1-1 through 57-1-51; and for the purpose of carrying out such joint industrial enterprise, all provisions of Sections 57-1-1 through 57-1-51, so far as the same are applicable, shall apply to all proceedings by such city, town or village and to all proceedings by such board of supervisors for the county in which such supervisors district is situated. The city, town or village and the supervisors district so joining shall have each an undivided interest in the industrial enterprise, including any land acquired for such purpose, in the same proportion as the amount of bonds issued by each bears to the total issued by both.

SOURCES: Codes, 1942, § 8936-41; Laws, 1952, ch. 421, §§ 1-4; Laws, 1958, ch. 526, §§ 2-5; Laws, 1960, ch. 212, §§ 1-3.

§ 57-1-107. Contracts.

When a city, town or village and the supervisors district wherein such city, town or village is situated join as provided in Sections 57-1-101 through 57-1-107 for the establishment of an industrial enterprise under the provisions of said sections, they shall be and are hereby authorized to contract jointly for the acquisition of land and to jointly enter into contracts for the purpose of establishing, operating, maintaining or leasing such industrial enterprise, including contracts for the construction thereof; or they may, by agreement adopted by resolution spread upon the minutes of the governing authority of such city, town or village and upon the minutes of the board of supervisors of the county, authorize either the governing authority of such city, town or village or the board of supervisors to enter into such contracts for and on behalf of both.

SOURCES: Codes, 1942, § 8936-41; Laws, 1952, ch. 421, §§ 1-4; Laws, 1958, ch. 526, §§ 2-5; Laws, 1960, ch. 212, §§ 1-3.

JOINDER OF SUPERVISORS DISTRICTS OF ADJACENT COUNTIES IN ESTABLISHING INDUSTRIAL ENTERPRISES

SEC.
57-1-131. Declaration of intention; petition for certificate; constitution of board of commissioners; petition of electors.
57-1-133. Election.
57-1-135. Appointment, terms of office, organization, and meetings of board of commissioners.
57-1-137. Rights, powers and authority of municipalities generally.
57-1-139. Issuance of bonds; contracts.
57-1-141. Execution of bonds.

57-1-143. Depository.
57-1-145. Tax levy.

§ 57-1-131. Declaration of intention; petition for certificate; constitution of board of commissioners; petition of electors.

When two or more adjoining supervisors districts of adjacent counties which desire to enter jointly into the establishment of an enterprise under the provisions of Sections 57-1-1 through 57-1-51, the board of supervisors of each county shall declare its intention of entering into such plan by resolution spread upon its minutes and shall jointly with the boards of supervisors of the counties affected file with the Mississippi Agricultural and Industrial Board, a petition for a certificate of public convenience and necessity in the manner and for the purposes prescribed by Section 57-1-21, and the board of supervisors of each county affected shall name two commissioners who, together with the commissioners appointed by the other counties acting jointly with them, shall constitute a board of commissioners for the purpose of proceeding the same as if the supervisors districts of the adjacent counties were within the same county.

A petition bearing the signatures of a majority of the qualified electors of a supervisors district filed with the chancery clerk, shall make it the mandatory duty of the board of supervisors of the county to pass the necessary resolution, appoint the commissioners and perform all other duties and functions necessary for the establishment of the enterprise.

SOURCES: Codes, 1942, § 8938-01; Laws, 1946, ch. 245, § 1; Laws, 1960, ch. 148.

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Investment of certain funds, see § 31-19-5.

Financing industrial enterprise projects by municipal loans, see § 57-41-1.

Necessity for obtaining certificate of public convenience and necessity before making municipal loans to finance industrial enterprise projects, see § 57-41-3.

RESEARCH REFERENCES

Am Jur. 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions § 192.

§ 57-1-133. Election.

Should a certificate of public convenience and necessity be issued by the Mississippi Agricultural and Industrial Board, the boards of supervisors of each of the counties affected shall call an election in each of the supervisors districts affected in the manner and method for calling, conducting and holding elections provided in Section 57-1-25, and should two-thirds of the qualified electors residing in each of the supervisors districts affected voting in the election, vote in favor of the enterprise, the supervisors districts included in the petition for public convenience and necessity shall be deemed a municipality within the meaning of Sections 57-1-1 through 57-1-51, and shall have all rights, powers and authority granted to municipalities as defined in said sections and by said sections.

SOURCES: Codes, 1942, § 8938-02; Laws, 1946, ch. 245, § 2.

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Election where municipality seeks to establish industrial enterprise, see § 57-1-25.

Election where separate school district and municipality seek to establish industrial enterprise, see § 57-1-73.

Election where municipalities and certain supervisors' district seek to establish industrial enterprise, see § 57-1-103.

Elections under Industrial Park Law of 1960, see § 57-5-19.

§ 57-1-135. Appointment, terms of office, organization, and meetings of board of commissioners.

The commissioners authorized by Section 57-1-131 shall be deemed to be the governing body of the municipality. Except as hereinafter provided, the term of each commissioner shall be four (4) years, and until his successor shall have been appointed in like manner and shall have qualified. In case of death, disability or resignation, the vacancy shall be filled for the unexpired term by appointment to be made by the board of supervisors of the county in which such vacancy occurred. Of the two (2) commissioners first appointed by each county, one (1) shall be designated to serve for a term of two (2) years, and the other shall be designated to serve for a term of four (4) years, and until their respective successors shall have been appointed and qualified. The aforesaid designations shall be made by the respective boards of supervisors. Such commissioners shall constitute a board, and shall organize by electing a president and a secretary, and by adopting an official seal with which to attest its official acts, and by adopting a name by which the municipality formed by the districts involved shall be known and recognized. The adoption of a name for any such municipality prior to the enactment of this statute is hereby validated and confirmed. The commissioners shall meet at such time and place as they may determine, shall keep full, complete and permanent minutes of their meetings and records of their proceedings, and shall receive no compensation for their services, except reimbursement for actual and necessary expenses incurred by them in traveling in performance of their duties. No action taken by such commissioners and no contract or agreement entered into by them shall be valid and effectual unless and until the same is approved by the board of supervisors of each county having territory involved, by resolution spread at large upon the minutes of such board.

SOURCES: Codes, 1942, § 8938-03; Laws, 1946, ch. 245, § 3; Laws, 1962, 2d Ex. Sess. ch. 26, eff from and after passage (approved Nov. 15, 1962).

§ 57-1-137. Rights, powers and authority of municipalities generally.

For the purpose of operating or engaging in the enterprise as authorized at the election held for that purpose, the municipality herein authorized acting through its board of commissioners and subject to the approval of the boards of supervisors of each of the counties having territory included within such municipality shall have all the rights, powers, and authority granted to municipalities by Sections 57-1-1 through 57-1-51.

SOURCES: Codes, 1942, § 8938-08; Laws, 1946, ch. 245, § 8.

§ 57-1-139. Issuance of bonds; contracts.

The board of commissioners of the municipality as defined in Section 57-1-133, subject to the approval of the boards of supervisors of each county having territory involved, may issue such bonds as may be authorized in the election held for the operation of the enterprise, and may make all contracts for the erection of buildings and structures and the acquisition and purchase of lands, and for the operation of such enterprise. All such contracts so entered into by such commissioners shall not be valid, however, until approved by resolution spread at large upon the minutes of each of the boards of supervisors of the counties having territory included in the municipality.

SOURCES: Codes, 1942, § 8938-04; Laws, 1946, ch. 245, § 4.

Cross References — County bonds generally, see §§ 19-9-1 et seq.

Municipal bonds generally, see §§ 21-33-301 et seq.

Financing industrial enterprise projects through municipal loans, see §§ 57-41-1 et seq.

§ 57-1-141. Execution of bonds.

The bonds issued under Section 57-1-139 shall be signed by the president of the board of commissioners, counter-signed by the clerk of said board of commissioners, and shall pledge the full faith and credit of the supervisors districts included in the municipality.

SOURCES: Codes, 1942, § 8938-05; Laws, 1946, ch. 245, § 5.

§ 57-1-143. Depository.

The board of commissioners of the municipality as defined in Section 57-1-133 shall designate a depository for the funds of the municipality in the same manner as county depositories are designated.

SOURCES: Codes, 1942, § 8938-06; Laws, 1946, ch. 245, § 6.

Cross References — Designation of county depositories, see §§ 27-105-303, 27-105-333.

§ 57-1-145. Tax levy.

On or before the first Monday of September of each year, the board of commissioners for the municipality comprising two or more supervisors districts of adjacent counties shall meet and levy a tax sufficient upon the taxable property of the territory to provide funds for the payment of interest on bonds and the payment of bonds maturing within one year, and to provide a sinking fund for the redemption of any outstanding bond and shall certify such levy to the boards of supervisors of each of the counties affected, prior to the date on which county tax levies are fixed, and it shall be the duty of the respective boards of supervisors to levy the tax prescribed by the board of commissioners of the municipality upon the taxable property of the territory of the county which is embraced in the municipality. The tax collector of each county shall thereupon collect such tax in the same manner and at the same time as other taxes are collected and shall transmit the proceeds thereof to the proper depositories.

SOURCES: Codes, 1942, § 8938-07; Laws, 1946, ch. 245, § 7.

JOINDER WITH ADJOINING SUPERVISORS DISTRICT WHICH HAS CERTIFICATE OF NECESSITY AND CONVENIENCE

Sec.	
57-1-171.	Definitions for Sections 57-1-171 through 57-1-179.
57-1-173.	Application for and issuance of certificate.
57-1-175.	Election; issuance of bonds.
57-1-177.	Application of Sections 57-1-1 through 57-1-51.
57-1-179.	Interest of joining municipality in enterprise.

§ 57-1-171. Definitions for Sections 57-1-171 through 57-1-179.

The word "municipality" as used in Sections 57-1-171 through 57-1-179 shall mean "county, supervisors district, city, town or village."

SOURCES: Codes, 1942, § 8937; Laws, 1946, ch. 320, §§ 1-5; Laws, 1960, ch. 146.

§ 57-1-173. Application for and issuance of certificate.

Whenever a supervisors district or a city, town or village in a supervisors district, or both, which adjoins a supervisors district in the same county, already having a certificate of convenience and necessity issued under the provisions of Sections 57-1-1 through 57-1-51, and which has already voted to engage in an enterprise authorized under the provisions of said sections, desires to join in the enterprise, the adjoining supervisors district or city, town or village, or both, wishing to so join may make application to the Mississippi Agricultural and Industrial Board for a certificate of convenience and necessity, the same as if such supervisors district or city, town or village, or both, had joined with the supervisors district already having a certificate of convenience and necessity in its original application. Such application shall show that the joining of the said supervisors district or city, town or village, or both, will benefit such municipality by the use of its natural resources or the employment of its labor, and that it has adequate property values and suitable financial conditions so that the total bonded indebtedness of the municipality shall not exceed twenty percent (20%) of the total assessed valuation of all of the property in the municipality, and that the joining of such municipality in the operation of the enterprise by the supervisors district already holding a certificate of convenience and necessity shall result in the enlargement of the enterprise and that such enlargement of the enterprise shall benefit the petitioning municipality. The board may issue a certificate of convenience and necessity the same as if the petitioning municipality had joined in the original application. However, when bonds are issued jointly by a municipality and a county or a supervisors district of such county, then in such event, the limitation of twenty percent (20%) of the assessed valuation of such municipality or county or supervisors district shall apply to each such taxing district even though such assessments include identical property.

SOURCES: Codes, 1942, § 8937; Laws, 1946, ch. 320, §§ 1-5; Laws, 1960, ch. 146.

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Application for certificate of convenience and necessity by municipality seeking to establish industrial enterprise, see § 57-1-19.

Issuance by agricultural and industrial board of certificate of convenience and necessity, see § 57-1-21.

Financing industrial enterprise projects by municipal loans, see § 57-41-1.

Necessity for obtaining certificate of public convenience and necessity before making municipal loans to finance industrial enterprise projects, see § 57-41-3.

RESEARCH REFERENCES

Am Jur. 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions § 213.

§ 57-1-175. Election; issuance of bonds.

When such certificate of convenience and necessity is issued authorizing the petitioning municipality to join in the operation of the enterprise, proceedings thereafter shall be held within such municipality as is provided in Sections 57-1-1 through 57-1-51 with reference to notice, voting and election, and such municipality may issue its bonds in such amount as may be authorized by the board for the enlargement and extension of the enterprise.

SOURCES: Codes, 1942, § 8937; Laws, 1946, ch. 320, §§ 1-5; Laws, 1960, ch. 146.

Cross References — Election where municipality seeks to establish industrial enterprise, see § 57-1-25.

Financing industrial enterprise projects through municipal loans, see §§ 57-41-1 et seq.

§ 57-1-177. Application of Sections 57-1-1 through 57-1-51.

All provisions of Sections 57-1-1 through 57-1-51, so far as the same are applicable, shall apply to all proceedings by the municipality desiring to join with another municipality which has already received a certificate of convenience and necessity.

SOURCES: Codes, 1942, § 8937; Laws, 1946, ch. 320, §§ 1-5; Laws, 1960, ch. 146.

§ 57-1-179. Interest of joining municipality in enterprise.

The municipality joining with another municipality which has already received a certificate of convenience and necessity shall have an undivided interest in the enterprise in the same proportion as the amount of bonds issued by such municipality bears to the total bonds issued by both municipalities in the establishment of such enterprise.

SOURCES: Codes, 1942, § 8937; Laws, 1946, ch. 320, §§ 1-5; Laws, 1960, ch. 146.

AVAILABLE INDUSTRIAL BUILDING PROGRAM
[REPEALED]

SEC.
57-1-201 through 57-1-215. Repealed.

§§ 57-1-201 through 57-1-215. Repealed.

Repealed by Laws, 1981, ch. 441, § 9, eff from and after July 1, 1985. [Laws, 1981, ch. 441, §§ 1-8]

Editor's Note — These sections provided for the encouragement of establishing industrial buildings, minimum requirements for industrial buildings, a building loan revolving fund, certificates of public convenience and necessity for development of industrial buildings, and repayment of loans.

Laws of 1981, ch. 441, § 9, provides as follows:

SECTION 9. This act shall take effect and be in force from and after July 1, 1981, and shall stand repealed from and after July 1, 1985, except that all obligations validly incurred shall continue to be valid obligations until fully discharged.

MISSISSIPPI INDUSTRY INCENTIVE FINANCING REVOLVING FUND

SEC.	
57-1-221.	Mississippi Industry Incentive Financing Revolving Fund created; use of funds; application for grant or loan.

§ 57-1-221. Mississippi Industry Incentive Financing Revolving Fund created; use of funds; application for grant or loan.

(1) As used in this section:

(a) "Approved business enterprise" means any project that:

(i) Locates or expands in this state and creates a minimum of two hundred fifty (250) new, full-time jobs with a total capital investment in the state of a minimum of Thirty Million Dollars ($30,000,000.00) in Tier 1 or Tier 2 counties;

(ii) Locates or expands in this state and creates a minimum of one hundred fifty (150) new, full-time jobs with a total capital investment in the state of a minimum of Fifteen Million Dollars ($15,000,000.00) in areas federally designated as low-income census tracts;

(iii) Locates or expands in this state and creates a minimum of one thousand (1,000) new, full-time jobs; or

(iv) Locates or expands in this state with significant regional impact as determined by MDA.

(b) "MDA" means the Mississippi Development Authority.

(c) "Facility related to the project" means and includes any of the following, as they may pertain to the project:

(i) Facilities to provide potable and industrial water supply systems, sewage and waste disposal systems and water, natural gas and electric transmission systems to the site of the project;

(ii) Building facilities and equipment necessary to operate the facility;

(iii) Rail lines;

(iv) Airports, airfields, air terminals and port facilities;

(v) Highways, streets and other roadways; and

(vi) Fire protection facilities, equipment and elevated water tanks.

(d) "Project" means any industrial, commercial, research and development, warehousing, distribution, transportation, processing, mining, United States government or tourism enterprise together with all real property required for construction, maintenance and operation of the enterprise that is approved by the MDA.

(2)(a) There is created a special fund in the State Treasury to be known as the Mississippi Industry Incentive Financing Revolving Fund which shall consist of money from any source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund. Money in the fund shall be disbursed by the Mississippi Development Authority for the purposes authorized in subsection (3) of this section.

(b) Money in the fund that is derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA in providing grants or loans under this section through the use of general obligation bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each grant or loan by the MDA. Reimbursement of reasonable actual and necessary costs for assistance shall not exceed three percent (3%) of the proceeds of bonds issued for such assistance. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(3) The MDA shall establish a program to make grants or loans from the Mississippi Industry Incentive Financing Revolving Fund to local governments, including, but not limited to, counties, municipalities, industrial development authorities and economic development districts, and approved business enterprises to construct or otherwise provide facilities related to the project. Local governments are authorized to accept grants and enter into loans authorized under the program, and to sell, lease or otherwise dispose of a project or any property related to the project in whole or in part.

(4)(a) Any business enterprise or local government desiring a grant or loan under this section shall submit an application to the MDA which shall include, at a minimum:

(i) Evidence that the business or industry meets the definition of an approved business enterprise;

(ii) A description, including the cost, of the requested assistance;

(iii) A description of the purpose for which the assistance is requested; and

(iv) Any other information required by the MDA.

(b) The MDA shall require that binding commitments be entered into requiring that:

(i) The minimum requirements of this section and such other requirements as the MDA considers proper shall be met; and

(ii) If such requirements are not met, all or a portion of the funds provided by this section as determined by the MDA shall be repaid.

(c) Upon receipt of the application from a business enterprise or local government for a grant or loan under this section, the MDA shall determine whether the enterprise meets the definition of an approved business enterprise and determine whether to provide the assistance requested in the form of a grant or a loan.

(d) The MDA shall have sole discretion in providing grants or loans under this section. The terms of a grant or loan provided under this section and the manner of repayment of any loan shall be within the discretion of the MDA. Repayments of loans made under this section shall be deposited to the credit of the Mississippi Industry Incentive Financing Revolving Fund until the uncommitted balance in the fund reaches Fifty Million Dollars ($50,000,000.00). Once the uncommitted balance in the fund reaches Fifty Million Dollars ($50,000,000.00), repayments of loans under this section shall be deposited to the credit of Fund No. 3951 in the State Treasury to pay debt service on bonds until such time as the uncommitted balance in the fund falls below Fifty Million Dollars ($50,000,000.00).

(e) The MDA shall notify the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee of the approval of any grant or loan application thirty (30) days prior to the disbursement of any money for the loan or grant from the Mississippi Industry Incentive Financing Revolving Fund. The notification shall identify the applicant and the purposes for which the loan or grant is made.

(5)(a) Contracts, by local governments, including, but not limited to, design and construction contracts, for the acquisition, purchase, construction or installation of a project shall be exempt from the provisions of Section 31-7-13 if:

(i) The MDA finds and records such finding on its minutes, that because of availability or the particular nature of a project, it would not be in the public interest or would less effectively achieve the purposes of this section to enter into such contracts on the basis of Section 31-7-13; and

(ii) The approved business enterprise that is involved in the project concurs in such finding.

(b) When the requirements of paragraph (a) of this subsection are met:

(i) The requirements of Section 31-7-13 shall not apply to such contracts; and

(ii) The contracts may be entered into on the basis of negotiation.

(6) It is the policy of the MDA and the MDA is authorized to accommodate and support any enterprise that receives a loan under this section for a project defined in Section 17-25-23 that wishes to have a program of diversity in contracting, and/or that wishes to do business with or cause its prime contractor to do business with Mississippi companies, including those companies that are small business concerns owned and controlled by socially and economically disadvantaged individuals. The term “socially and economically disadvantaged individuals” shall have the meaning ascribed to such term under Section 8(d) of the Small Business Act (15 USCS 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this subsection.

(7) The MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation of this section.

SOURCES: Laws, 2010, ch. 533, § 24; Laws, 2011, ch. 301, § 3; Laws, 2011, ch. 480, § 23; Laws, 2011 1st Ex Sess, ch. 1, § 2; Laws, 2013, ch. 569, § 41, eff from and after passage (approved April 25, 2013.)

Joint Legislative Committee Note — Section 3 of ch. 301, Laws of 2011, effective from and passage (approved January 10, 2011), amended this section. Section 23 of ch. 480, Laws of 2011, effective from and after passage (approved April 6, 2011), also amended this section. As set out above, this section reflects the language of Section 23 of ch. 480, Laws of 2011, which contains language that specifically provides that it supersedes § 57-1-221 as amended by Laws of 2011, ch. 301.

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

Amendment Notes — The 2013 amendment in (4)(d), added "until the uncommitted balance in the fund reaches Fifty Million Dollars ($50,000,000.00)" at the end of the third sentence, and added the last sentence; and added (4)(e).

Cross References — Counties and municipalities authorized to enter into agreements with approved business enterprises under certain circumstances, see § 17-25-23.

Federal Aspects — Section 8(d) of the Small Business Act, see 15 USCS § 637(d).

MAJOR ENERGY PROJECT DEVELOPMENTS

Sec.	
57-1-251.	Definitions.
57-1-253.	Duties of department as to proposal, planning, financing, development, operation, etc., of project; cooperation by other agencies.
57-1-255.	Bonds and notes; Major Energy Project Development Fund.
57-1-257.	Acts of public agencies authorized for purpose of planning, design, undertaking, and carrying out project.
57-1-259.	Concurrence of affected county, municipality, and/or school district required.
57-1-261.	Construction of Sections 57-1-251 through 57-1-261.

§ 57-1-251. Definitions.

Words and phrases used in Sections 57-1-251 through 57-1-261 shall have meanings as follows, unless the context clearly indicates a different meaning:

(a) "Bonds" means general obligation bonds, interim notes and other evidences of debt of the State of Mississippi issued pursuant to Sections 57-1-251 through 57-1-261.

(b) "Department" means the Department of Economic and Community Development.

(c) "Facility related to the project" means and includes any of the following, as the same may pertain to the project: (i) facilities to provide potable and industrial water supply systems and sewage and waste disposal systems to the site of the project; (ii) airports, airfields and air terminals; (iii) rail lines; (iv) port and marine terminal facilities; (v) pipelines; (vi) storage facilities; (vii) highways, streets and other roadways, including curbing, guttering and storm water sewers; (viii) public school buildings, classrooms and instructional facilities, day care centers, including any functionally related facilities; (ix) parks, outdoor recreation facilities and athletic facilities; (x) auditoriums, pavilions, campgrounds, art centers, cultural centers, folklore centers and other public facilities; (xi) health care facilities, public or private; (xii) buildings and appurtenances used in support of the project; (xiii) security systems, fire suppression and prevention systems, utility distribution systems; and (xiv) on-site utilities, including, but not limited to, electricity, natural gas, telephone and other telecommunications facilities.

(d) "Person" means any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, governmental unit, public agency, political subdivision, or any other group acting as a unit, and the plural as well as the singular.

(e) "Project" means the Strategic Petroleum Reserve, proposed to be constructed by the Department of Energy, any successor agency thereto, or a private entity engaged in the business of purchasing, storing, and offering for sale or resale, petroleum products or natural gas, together with all real property required for construction, maintenance and operation of the Strategic Petroleum Reserve, and all building, tunneling and other supporting land facilities required or useful for construction, maintenance and operation of the Strategic Petroleum Reserve; or any project specifically designed to produce, manufacture, mine, or temporarily store a source of energy, either as primary energy or as a secondary energy for distribution or sale, or both, to persons located at or near the site of production, manufacture, mining, or storage, when such production, manufacturing, mining and temporary storage activities are limited to the indigenous natural resources of the state, including oil, natural gas, lignite and other coal resources, bioenergy resources, salt domes, depleted underground reservoirs and aquifers suited for the temporary storage of hydrocarbons to be used as primary energy sources.

(f) "Public agency" means and includes:

(i) Any department, board, commission, institution or other agency or instrumentality of the state;

(ii) Any city, town, county, political subdivision, school district or other district created or existing under the laws of the state or any public agency of any such city, town, county, political subdivision or district;

(iii) Any department, commission, agency or instrumentality of the United States of America; and

(iv) Any other state of the United States of America which may be cooperating with respect to location of the project within the state, or any agency thereof.

(g) "State" means State of Mississippi.

SOURCES: Laws, 1992, ch. 552 § 1; Laws, 1996, ch. 482, § 1, eff from and after July 1, 1996.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-1-253. Duties of department as to proposal, planning, financing, development, operation, etc., of project; cooperation by other agencies.

The department is hereby designated and empowered to act on behalf of the state in submitting a siting proposal for the project. The department is empowered to take all steps appropriate or necessary to effect the siting, development, and operation of the project within the state. If the state is selected as the preferred site for the project, the department is hereby designated and empowered to act on behalf of the state and to represent the state in the planning, financing, development, construction and operation of the project or any facility related to the project, with the concurrence of the affected public agency. The department may take affirmative steps to coordinate fully all aspects of the submission of a siting proposal for the project and, if the state is selected as the preferred site, to coordinate fully, with the concurrence of the affected public agency, the development of the project or any facility related to the project with private business, the United States government and other public agencies. All public agencies are encouraged to cooperate to the fullest extent possible to effectuate the duties of the department; however, the development of the project or any facility related to the project by the department may be done only with the concurrence of the affected public agency.

SOURCES: Laws, 1992, ch. 552 § 2, eff from and after passage (approved May 15, 1992).

§ 57-1-255. Bonds and notes; Major Energy Project Development Fund.

(1) Upon notification to the department by the enterprise that the state has been finally selected as the site for the project, the State Bond Commission shall have the power and is hereby authorized and directed, upon receipt of a declaration from the department as hereinafter provided, to borrow money and issue general obligation bonds of the state in one or more series for the purposes herein set out. Upon such notification, the department may thereafter from time to time declare the necessity for the issuance of general obligation bonds as authorized by this section and forward such declaration to the State Bond Commission, provided that prior to said notification, the department may enter into agreements with the United States government, private companies and others that will commit the department to direct the State Bond Commission to issue bonds for eligible undertakings set out in subsection (4) of this section, conditioned on the siting of the project in the state.

(2) Upon receipt of any such declaration from the department, the State Bond Commission, upon verifying that the state has been selected as the site of the project, shall act as the issuing agent for the series of bonds directed to be issued in such declaration pursuant to authority granted in this section.

(3) Bonds issued under the authority of this section shall not exceed an aggregate principal amount in the sum of Thirty Million Dollars ($30,000,000.00). No bonds shall be issued under the authority of this section after June 30, 2000.

(4) The proceeds from the sale of the bonds issued pursuant to this section may be applied for the purposes of: (a) defraying all or any designated portion of the costs incurred with respect to acquisition, planning, design, construction, installation, rehabilitation, improvement and relocation of the project and any facility related to the project, including costs of design and engineering, all costs incurred to provide land, easements and rights-of-way, relocation costs with respect to the project and with respect to any facility related to the project located within the project area, and costs associated with mitigation of environmental impacts; (b) providing for the payment of interest on the bonds; (c) providing debt service reserves; and (d) paying underwriters discount, original issue discount, accountants' fees, engineers' fees, attorney's fees, rating agency fees and other fees and expenses in connection with the issuance of the bonds. Such bonds shall be issued from time to time and in such principal amounts as shall be designated by the department not to exceed in aggregate principal amount the amount authorized in subsection (3) of this section. Proceeds from the sale of the bonds issued pursuant to this section may be invested, subject to federal limitations, pending their use, in such securities as may be specified in the resolution authorizing the issuance of the bonds or the trust indenture securing them, and the earning on such investment applied as provided in such resolution or trust indenture.

(5) The principal of and the interest on the bonds shall be payable in the manner hereinafter set forth. The bonds shall bear date or dates, be in such denomination or denominations, bear interest at such rate or rates, be payable at such place or places within or without the state, shall mature absolutely at such time or times, be redeemable prior to maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by resolution of the State Bond Commission. Provided, however, that such bonds shall mature or otherwise be retired in annual installments beginning not more than five (5) years from date thereof and extending not more than twenty-five (25) years from date thereof. The bonds shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the State Bond Commission shall be imprinted on or affixed thereto, attested by the manual or facsimile signature of the Secretary of the State Bond Commission. Whenever any such bonds shall have been signed by the officials herein designated to sign the bonds, who were in office at the time of such signing but who may have ceased to be such officers prior to the sale and delivery of such bonds, or who may not have been in office on the date such

bonds may bear, the signatures of such officers upon such bonds shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until the delivery of the same to the purchaser, or had been in office on the date such bonds may bear.

(6) All bonds issued under the provisions of this section shall be and are hereby declared to have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code and in exercising the powers granted by Sections 57-1-251 through 57-1-261, the State Bond Commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

(7) The State Bond Commission shall sell the bonds on sealed bids at public sale, and for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale shall be made at a price less than par plus accrued interest to date of delivery of the bonds to the purchaser. The bonds shall bear interest at such rate or rates not exceeding the limits set forth in Section 75-17-101, as shall be fixed by the State Bond Commission. All interest accruing on such bonds so issued shall be payable semiannually or annually; provided that the first interest payment may be for any period of not more than one (1) year.

Notice of the sale of any bond shall be published at least one (1) time, the first of which shall be made not less than ten (10) days prior to the date of sale, and shall be so published in one or more newspapers having a general circulation in the City of Jackson and in one or more other newspapers or financial journals with a large national circulation, to be selected by the State Bond Commission.

The State Bond Commission, when issuing any bonds under the authority of this section, may provide that the bonds, at the option of the state, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

(8) State bonds issued under the provisions of this section shall be the general obligations of the state and backed by the full faith and credit of the state, and if the funds appropriated by the Legislature shall be insufficient to pay the principal of and the interest on such bonds as they become due, then the deficiency shall be paid by the State Treasurer from any funds in the State Treasury not otherwise appropriated. All bonds shall contain recitals on their faces substantially covering the foregoing provisions of this section.

(9) The State Treasurer is hereby authorized, without further process of law, to certify to the Department of Finance and Administration the necessity for warrants, and the Department of Finance and Administration is hereby authorized and directed to issue such warrants payable out of any funds authorized by this section for such purpose, in such amounts as may be necessary to pay when due the principal of and interest on all bonds issued under the provisions of this section; and the State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

(10) The bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by Sections 57-1-251 through 57-1-261. Any resolution providing for the issuance of general obligation bonds under the provisions of this section shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular or special meeting of the State Bond Commission by a majority of its members.

(11) In anticipation of the issuance of bonds hereunder, the State Bond Commission is hereby authorized to negotiate and enter into any purchase, loan, credit or other agreement with any bank, trust company or other lending institution or to issue and sell interim notes for the purpose of making any payments authorized under this section. All borrowings made under this provision shall be evidenced by notes of the state which shall be issued from time to time, for such amounts not exceeding the amount of bonds authorized herein, in such form and in such denomination and subject to such terms and conditions of sale and issuance, prepayment or redemption and maturity, rate or rates of interest not to exceed the maximum rate authorized herein for bonds, and time of payment of interest as the State Bond Commission shall agree to in such agreement. Such notes shall constitute general obligations of the state and shall be backed by the full faith and credit of the state. Such notes may also be issued for the purpose of refunding previously issued notes; provided that no notes shall mature more than three (3) years following the date of issuance of the first note hereunder and provided further, that all outstanding notes shall be retired from the proceeds of the first issuance of bonds hereunder. The State Bond Commission is authorized to provide for the compensation of any purchaser of the notes by payment of a fixed fee or commission and for all other costs and expenses of issuance and service, including paying agent costs. Such costs and expenses may be paid from the proceeds of the notes.

(12) The bonds and interim notes authorized under the authority of this section may be validated in the First Judicial District of the Chancery Court of Hinds County, Mississippi, in the manner and with the force and effect provided now or hereafter by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The necessary papers for such validation proceedings shall be transmitted to the State Bond Attorney, and the required notice shall be published in a newspaper published in the City of Jackson, Mississippi.

(13) Any bonds or interim notes issued under the provisions of Sections 57-1-251 through 57-1-261, a transaction relating to the sale or securing of such bonds or interim notes, their transfer and the income therefrom shall at all times be free from taxation by the state or any local unit or political subdivision or other instrumentality of the state, excepting inheritance and gift taxes.

(14) All bonds issued pursuant to Sections 57-1-251 through 57-1-261 shall be legal investments for trustees, other fiduciaries, savings banks, trust

companies and insurance companies organized under the laws of the State of Mississippi; and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of the state and all municipalities and other political subdivisions thereof for the purpose of securing the deposit of public funds.

(15) There is hereby created a special fund in the State Treasury to be known as the "Major Energy Project Development Fund" wherein shall be deposited the proceeds of the bonds issued under Sections 57-1-251 through 57-1-261 and all monies received by the department to carry out the purposes of such sections. Expenditures authorized herein shall be paid by the State Treasurer upon warrants drawn from the fund, and the Department of Finance and Administration shall issue warrants upon requisitions signed by the director of the department.

(16)(a) There is hereby created the "Major Energy Project Development Sinking Fund" from which the principal of and interest on such bonds shall be paid by appropriation. All monies paid into the sinking fund not appropriated to pay accruing bonds and interest shall be invested by the State Treasurer in such securities as are provided by law for the investment of the sinking funds of the state.

(b) In the event that all or any part of the bonds and notes are purchased, they shall be canceled and returned to the loan and transfer agent as canceled and paid bonds and notes and thereafter all payments of interest thereon shall cease and the canceled bonds, notes and coupons, together with any other canceled bonds, notes and coupons, shall be destroyed as promptly as possible after cancellation but not later than two (2) years after cancellation. A certificate evidencing the destruction of the canceled bonds, notes and coupons shall be provided by the loan and transfer agent to the seller.

(c) The State Treasurer shall determine and report to the Department of Finance and Administration and Legislative Budget Office by September 1 of each year the amount of money necessary for the payment of the principal of and interest on outstanding obligations for the following fiscal year and the times and amounts of the payments. It shall be the duty of the Governor to include in every executive budget submitted to the Legislature full information relating to the issuance of bonds and notes under the provisions of Sections 57-1-251 through 57-1-261 and the status of the sinking fund for the payment of the principal of and interest on the bonds and notes.

SOURCES: Laws, 1992, ch. 552 § 3; Laws, 1996, ch. 482, § 2; Laws, 1997, ch. 394, § 1; Laws, 1997, ch. 479, § 1; Laws, 1998, ch. 399, § 1, eff from and after July 1, 1998.

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

Negotiable instruments under the Mississippi Uniform Commercial Code, see §§ 75-3-101 et seq.

§ 57-1-257. Acts of public agencies authorized for purpose of planning, design, undertaking, and carrying out project.

For the purpose of aiding in the planning, design, undertaking and carrying out of the project or any facility related to the project, any public agency is authorized and empowered upon such terms, with or without consideration, as it may determine: (a) to enter into agreements, which may extend over any period, with the department respecting action to be taken by such public agency with respect to the acquisition, planning, construction, improvement, operation, maintenance or funding of the project or any such facility, and which agreements may include (i) the appropriation or payment of funds to the department or to a trustee in amounts which shall be sufficient to enable the department to defray any designated portion or percentage of the expenses of administering, planning, designing, constructing, acquiring, improving, operating, and maintaining the project or any facility related to the project, (ii) the appropriation or payment of funds to the department or to a trustee to pay interest and principal (whether at maturity or upon sinking fund redemption) on bonds of the department issued pursuant to Sections 57-1-251 through 57-1-261 and to fund reserves for debt service, for operation and maintenance and for renewals and replacements, and to fulfill requirements of any covenant with respect to debt service contained in any resolution, trust indenture or other security agreement relating to the bonds of the department issued pursuant to Sections 57-1-251 through 57-1-261 and (iii) the furnishing of other assistance in connection with the project or facility related to the project; (b) to dedicate, sell, donate, convey or lease any property or interest in property to the department or grant easements, licenses or other rights or privileges therein to the department; (c) to incur the expense of any public improvements made or to be made by such public agency in exercising the powers granted in this section; (d) to lend, grant or contribute funds to the department; (e) to cause public buildings and public facilities, including parks, playgrounds, recreational areas, community meeting facilities, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished to or with respect to the project or any such facility; (f) to furnish, dedicate, close, vacate, pave, install, upgrade or improve highways, streets, roads, sidewalks, airports, railroads, or ports; (g) to plan or replan, zone or rezone any parcel of land within the public agency or make exceptions from land use, building and zoning regulations; and (h) to cause administrative and other services to be furnished to the department, including services pertaining to the acquisition of real property and the furnishing of relocation assistance. Any contract between a public agency entered into with the department pursuant to any of the powers granted by Sections 57-1-251 through 57-1-261 shall be binding upon said public agency according to its terms, and such public agency shall have the power to enter into such contracts as in the discretion of the governing authorities thereof would be to the best interest of the people of such public agency. Such contracts may include within the discretion of such governing authorities of public agencies defined under

Section 57-1-251(f)(ii) a pledge of the full faith and credit of such public agency for the performance thereof. If at any time title to or possession of the project or any such facility is held by any public body or governmental agency other than the department, including any agency or instrumentality of the United States of America, the agreements referred to in this section shall inure to the benefit of and may be enforced by such public body or governmental agency.

Notwithstanding any provisions of Sections 57-1-251 through 57-1-261 to the contrary, any contract entered into between the department and any public agency for the appropriation or payment of funds to the department under item (a)(ii) of this section shall contain a provision therein requiring monthly payments by the public agency to pay its indebtedness and, if the public agency is not a county or municipality, such contract shall include as an additional party to the contract the county or municipality (referred to in this paragraph as "levying authority") that levies and collects taxes for the contracting public agency. If the public agency fails to pay its indebtedness for any month, the department shall certify to the State Tax Commission, or other appropriate agency, the amount of the delinquency, and the State Tax Commission shall deduct such amount from the public agency's or levying authority's, as the case may be, next allocation of sales taxes, petroleum taxes, highway privilege taxes, severance taxes, Tennessee Valley Authority payments in lieu of taxes and homestead exemption reimbursements in that order of priority. The State Tax Commission, or other appropriate agency, shall pay the sums so deducted to the department to be applied to the discharge of the contractual obligation.

SOURCES: Laws, 1992, ch. 552 § 4, eff from and after passage (approved May 15, 1992).

Editor's Note — Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Cross References — Department of Revenue generally, see §§ 27-3-1 et seq.

Tennessee Valley Authority payments in lieu of taxes, see §§ 27-37-301 through 27-37-307.

§ 57-1-259. Concurrence of affected county, municipality, and/or school district required.

The department shall not undertake to develop any project or facility related to the project within a county, municipality and/or school district without the concurrence of the affected county, municipality and/or school district.

SOURCES: Laws, 1992, ch. 552 § 5, eff from and after passage (approved May 15, 1992).

§ 57-1-261. Construction of Sections 57-1-251 through 57-1-261.

The provisions of Sections 57-1-251 through 57-1-261 are cumulative of other statutes now or hereafter enacted relating to the department, and the department may exercise all presently held powers in the furtherance of Sections 57-1-251 through 57-1-261. If any section, paragraph, sentence, clause, phrase or any part of the provisions of Sections 57-1-251 through 57-1-261 is declared to be unconstitutional or void, or for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses and phrases shall in no manner be affected thereby but shall remain in full force and effect.

SOURCES: Laws, 1992, ch. 552 § 6, eff from and after passage (approved May 15, 1992).

LOCAL GOVERNMENTS CAPITAL IMPROVEMENTS REVOLVING LOAN PROGRAM

SEC.	
57-1-301.	Local governments capital improvements revolving loan program established; "capital improvements" defined.
57-1-303.	Local Governments Capital Improvements Revolving Loan Fund; loan program; pledge for repayment of loan by county or municipality; audit of county or municipality where loan payments in arrears; applicability of debt limitations; renegotiation of certain loans [Subsection (1)(a)(ii) repealed effective July 1, 2015].
57-1-305.	General powers and duties of department.
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57-1-327.	Bonds; legal investments and legal securities.
57-1-329.	Bonds; exemption from taxation.
57-1-331.	Bonds; use of proceeds.
57-1-333.	Bonds; issuance of warrants for payment.
57-1-335.	Construction of Sections 57-1-307 through 57-1-335.

§ 57-1-301. Local governments capital improvements revolving loan program established; "capital improvements" defined.

(1) There is established a local governments capital improvements revolving loan program to be administered by the Mississippi Development Author-

ity for the purpose of assisting counties and municipalities in making capital improvements.

(2) For purposes of Sections 57-1-301 through 57-1-335, "capital improvements" include any combination of the following:

(a) Construction or repair of water and sewer facilities;

(b) Construction or repair of drainage systems for industrial development;

(c) Improvements in fire protection;

(d) Construction of new buildings for economic development purposes;

(e) Renovation or repair of existing buildings for economic development purposes;

(f) Construction or repair of access roads for industrial development;

(g) Purchase of buildings for economic development purposes;

(h) Construction or repair of railroad spurs for industrial development;

(i) Construction of any county or municipally owned health care facilities, excluding any county health departments;

(j) Construction, purchase, renovation or repair of any building to be utilized as an auditorium or convention center;

(k) Construction of multipurpose facilities for tourism development;

(*l*) Loans to a county to aid in retiring interest-bearing loans utilized for the purchase of a motion picture sound stage;

(m) Construction, repair and renovation of parks, swimming pools and recreational and athletic facilities; or

(n) Remediation of brownfield agreement sites in accordance with Sections 49-35-1 through 49-35-25.

SOURCES: Laws, 1994, ch. 570, § 1; Laws, 1996, ch. 517, § 1; Laws, 1997, ch. 534, § 1; Laws, 2002, ch. 548, § 1; Laws, 2005, ch. 497, § 4, eff from and after Jan. 1, 2005.

Editor's Note — Laws of 2005, ch. 497, § 8 provides as follows:

"SECTION 8. Nothing in Laws of 2005, Chapter 497, shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before January 1, 2005 or are begun thereafter. The provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before January 1, 2005, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

ATTORNEY GENERAL OPINIONS

While Section 21-17-1 authorizes a municipality to acquire property for municipal buildings, this statute does not authorize a municipality to acquire a building for the purpose of conveying it to an industrial prospect as contemplated by Section 57-1-19 et seq. and 57-1-301 et seq. Creekmore, December 20, 1996, A.G. Op. #96-0660.

The proposed lease of an industrial building, financed by a city with a loan under the Capital Improvements Loan Program of the Mississippi Department of Economic and Community Development [now Mississippi Development Authority] pursuant to the provisions of Section 57-1-301 et seq. may be undertaken as set forth by Section 57-1-45. Phillips, June 26, 1998, A.G. Op. #98-0348.

A board of supervisors is not prohibited from entering into an agreement for a loan under the local governments capital improvements revolving loan program provided by §§ 57-1-301 et seq. at any time during the last year of their terms of office. Lamar, July 30, 1999, A.G. Op. #99-0368.

§ 57-1-303. Local Governments Capital Improvements Revolving Loan Fund; loan program; pledge for repayment of loan by county or municipality; audit of county or municipality where loan payments in arrears; applicability of debt limitations; renegotiation of certain loans [Subsection (1)(a)(ii) repealed effective July 1, 2015].

(1)(a)(i) There is created a special fund in the State Treasury to be designated as the "Local Governments Capital Improvements Revolving Loan Fund," which fund shall consist of such monies as provided in Sections 57-1-307 through 57-1-335. The fund shall be maintained in perpetuity for the purposes established in Sections 57-1-301 through 57-1-335. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund may not be used or expended for any purpose except as authorized under Sections 57-1-301 through 57-1-335.

(ii) Monies in the Local Governments Capital Improvements Revolving Loan Fund which are derived from interest on loan payments received by the Mississippi Development Authority after January 1, 2002, for loans funded with proceeds of bonds whose interest is not exempt from income taxation under the provisions of the Internal Revenue Code may be used by the Mississippi Development Authority for the ordinary and necessary general support of the Mississippi Development Authority. However, such monies may not be used for the purpose of providing salary increases for Mississippi Development Authority employees. The Mississippi Development Authority may escalate its budget and expend such monies in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. This subparagraph (ii) shall be repealed from and after July 1, 2015.

(b) The Local Governments Capital Improvements Revolving Loan Fund shall be divided into the Taxable Local Governments Capital Improvements Revolving Loan Subaccount and the Nontaxable Local Governments Capital Improvements Revolving Loan Subaccount. Funds allocated to the Nontaxable Local Governments Capital Improvements Revolving Loan Subaccount shall be utilized to provide loans for capital improvements that would qualify for the issuance of bonds whose interest is exempt from income taxation under the provisions of the Internal Revenue Code. Funds allocated to the Taxable Local Governments Capital Improvements Revolving Loan Subaccount shall be utilized to provide loans for any eligible capital improvements, including, but not limited to, capital improvements that would qualify for the issuance of bonds whose interest is exempt from income taxation under the provisions of the Internal Revenue Code.

(c) Of the funds deposited into the Local Governments Capital Improvements Revolving Loan Fund, not less than Twenty-five Million Dollars ($25,000,000.00) shall be allocated to the Nontaxable Local Governments Capital Improvements Revolving Loan Subaccount, and the remainder of such funds shall be allocated to the Taxable Local Governments Capital Improvements Revolving Loan Subaccount.

(2) A county or an incorporated municipality may apply to the Mississippi Development Authority for a loan under the local governments capital improvements revolving loan program established under Sections 57-1-301 through 57-1-335.

(3)(a) The Mississippi Development Authority shall establish a loan program by which loans, at the rate of interest provided for in paragraph (b) of this subsection, may be made available to counties and incorporated municipalities to assist counties and incorporated municipalities in making capital improvements. Loans from the revolving fund may be made to counties and municipalities as set forth in a loan agreement in amounts not to exceed one hundred percent (100%) of eligible project costs as established by the Mississippi Development Authority. The Mississippi Development Authority may require county or municipal participation or funding from other sources, or otherwise limit the percentage of costs covered by loans from the revolving fund. The Mississippi Development Authority may establish a maximum amount for any loan in order to provide for broad and equitable participation in the program and loans for projects described in Section 57-1-301(1)(m) shall not exceed Two Hundred Fifty Thousand Dollars ($250,000.00) per project.

(b)(i) Except as otherwise provided in this paragraph (b), the rate of interest on loans made from the Local Governments Capital Improvements Revolving Loan Fund for capital improvements that would qualify for the issuance of bonds whose interest is exempt from income taxation under the provisions of the Internal Revenue Code shall be at the rate of three percent (3%) per annum, calculated according to the actuarial method. The rate of interest on loans for all other capital improvements shall be at the true interest cost on the most recent issue of twenty-year state general obligation bonds occurring prior to the date such loan is made.

(ii) The rate of interest on loans made after April 9, 2002, from the Local Governments Capital Improvements Revolving Loan Fund for capital improvements that would qualify for the issuance of bonds whose interest is exempt from income taxation under the provisions of the Internal Revenue Code shall be at the rate of the lesser of two percent (2%) per annum, calculated according to the actuarial method, or the true interest cost on the most recent issue of state general obligation bonds occurring prior to the date such loan is made. The rate of interest on loans made after April 9, 2002, for all other capital improvements shall be at the rate of three percent (3%) per annum, calculated according to the actuarial method.

(iii) Notwithstanding the provisions of this paragraph to the contrary, loans made for the purposes of the capital project described in Section 57-1-301(2)(*l*) shall bear no interest.

(4) A county that receives a loan from the revolving fund shall pledge for repayment of the loan any part of the homestead exemption annual tax loss reimbursement to which it may be entitled under Section 27-33-77. An incorporated municipality that receives a loan from the revolving fund shall pledge for repayment of the loan any part of the sales tax revenue distribution to which it may be entitled under Section 27-65-75. Each loan agreement shall provide for (i) monthly payments, (ii) semiannual payments, or (iii) other periodic payments, the annual total of which shall not exceed the annual total for any other year of the loan by more than fifteen percent (15%). The loan agreement shall provide for the repayment of all funds received within not more than twenty (20) years from the date of project completion.

(5) The State Auditor, upon request of the Mississippi Development Authority, shall audit the receipts and expenditures of a county or an incorporated municipality whose loan payments appear to be in arrears, and if he finds that the county or municipality is in arrears in such payments, he shall immediately notify the Executive Director of the Department of Finance and Administration who shall withhold all future payments to the county of homestead exemption reimbursements under Section 27-33-77 and all sums allocated to the county or the municipality under Section 27-65-75 until such time as the county or the municipality is again current in its loan payments as certified by the Mississippi Development Authority.

(6) Evidences of indebtedness which are issued pursuant to this chapter shall not be deemed indebtedness within the meaning specified in Section 21-33-303 with regard to cities or incorporated towns, and in Section 19-9-5 with regard to counties.

(7) There is created a special fund in the State Treasury to be designated as the "Local Governments Brownfields Redevelopment Grant Fund." The fund shall consist of those monies as provided in Section 57-1-307. Unexpended amounts remaining in the fund at the end of the fiscal year shall not lapse into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund may not be used or expended for any purpose except as authorized in this section. From and after July 1, 2009, the Local Governments Brownfields Redevelopment Grant Fund is abolished and all money in the fund shall be transferred to the Local Governments Capital Improvements Revolving Loan Fund.

(8) The Mississippi Development Authority may, on a case-by-case basis, renegotiate the payment of principal and interest on loans made under Sections 57-1-301 through 57-1-335 to the six (6) most southern counties of the

state covered by the Presidential Declaration of Major Disaster for the State of Mississippi (FEMA-1604-DR) dated August 29, 2005, and to political subdivisions located in such counties; however, the interest on the loans shall not be forgiven for a period of more than twenty-four (24) months and the maturity of the loans shall not be extended for a period of more than forty-eight (48) months.

SOURCES: Laws, 1994, ch. 570, § 2; Laws, 1995, ch. 415, § 1; Laws, 1997, ch. 534, § 2; Laws, 2002, ch. 548, § 2; Laws, 2005, ch. 349, § 1; Laws, 2005, ch. 497, § 5; Laws, 2006, ch. 545, § 6; Laws, 2007, ch. 388, § 1; Laws, 2009, ch. 557, § 13; Laws, 2010, ch. 458, § 1, eff from and after July 1, 2010.

Joint Legislative Committee Note — Section 1 of ch. 349, Laws of 2005, effective from and after July 1, 2005 (approved March 14, 2005), amended this section. Section 8 of ch. 497, Laws of 2005, effective from and after January 1, 2005 (approved April 21, 2005), also amended this section. As set out above, this section reflects the language of Section 8 of ch. 497, Laws of 2005 which, by its terms, superseded the amendment made by Section 1 of ch. 349, Laws of 2005.

Editor's Note — Laws of 2005, ch. 497, § 8 provides as follows:

"SECTION 8. Nothing in Laws of 2005, Chapter 497, shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before January 1, 2005 or are begun thereafter. The provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before January 1, 2005, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Cross References — State Bond Commission declaration of necessity for issuance of general obligation bonds to provide funds for costs incurred for the purposes described in this section, see § 57-1-307.

§ 57-1-305. General powers and duties of department.

In administering the provisions of Sections 57-1-301 through 57-1-335, the Department of Economic and Community Development shall have the following powers and duties:

(a) To supervise the use of all funds made available under Sections 57-1-301 through 57-1-335 for local governments capital improvements;

(b) To review and certify all projects for which funds are authorized to be made available under Sections 57-1-301 through 57-1-335 for local governments capital improvements;

(c) To requisition monies in the Local Governments Capital Improvements Revolving Loan Fund and distribute those monies on a project-by-project basis in accordance with the provisions of Sections 57-1-301 through 57-1-335;

(d) To insure that the funds made available to a county or an incorporated municipality under Sections 57-1-301 through 57-1-335 provide for an equitable distribution of projects and funds among the counties and incorporated municipalities;

(e) To maintain an accurate record of all local governments capital improvements funds made available to counties and municipalities and the costs for each project.

(f) To adopt and promulgate such rules and regulations as may be necessary or desirable for the purpose of implementing the provisions of Sections 57-1-301 through 57-1-335; and

(g) To file annually with the Legislature a report detailing how monies in the Local Governments Capital Improvements Revolving Loan Fund were spent during the preceding fiscal year in each county and incorporated municipality, the number of projects approved and constructed, and the cost of each project.

SOURCES: Laws, 1994, ch. 570, § 3, eff from and after passage (approved April 7, 1994).

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Local Governments Capital Improvements Revolving Loan Fund created, see § 57-1-303.

§ 57-1-307. Bonds; resolution for issuance; disposition of bond sale proceeds and investment earnings generally.

(1) The State Bond Commission, at one time, or from time to time, may declare by resolution the necessity for issuance of general obligation bonds of the State of Mississippi to provide funds for all costs incurred or to be incurred for the purposes described in Section 57-1-303. Upon the adoption of a resolution by the Mississippi Development Authority, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this section, the Mississippi Development Authority shall deliver a certified copy of its resolution or resolutions to the State Bond Commission. Upon receipt of such resolution, the State Bond Commission, in its discretion, may act as the issuing agent, prescribe the form of the bonds, determine the appropriate method for sale of the bonds, advertise for and accept bids or negotiate the sale of the bonds, issue and sell the bonds so authorized to be sold and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The total amount of bonds issued under Sections 57-1-307 through 57-1-335 shall not exceed One Hundred Fifteen Million Dollars ($115,000,000.00); provided, however, that an additional amount of bonds may be issued under Sections 57-1-307 and 57-1-335 in an amount not to exceed Thirteen Million Dollars ($13,000,000.00), and the proceeds of any such additional amount of bonds so issued shall be utilized solely to provide loans for capital improvements that would qualify for the issuance of bonds whose interest is exempt from income taxation under the provisions of the Internal Revenue Code.

(2) Proceeds from the sale of bonds shall be deposited in the special fund created in Section 57-1-303. Any investment earnings on amounts deposited into the special fund created in Section 57-1-303 shall be used to pay debt service on bonds issued under Sections 57-1-307 through 57-1-335, in accordance with the proceedings authorizing issuance of such bonds.

SOURCES: Laws, 1994, ch. 570, § 4; Laws, 1997, ch. 534, § 3; Laws, 1999, ch. 577, § 1; Laws, 2000, ch. 584, § 1; Laws, 2005, ch. 497, § 6; Laws, 2009, ch. 557, § 14, eff from and after passage (approved Apr. 17, 2009.)

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in (2). In the next-to-last sentence, the word "of" was inserted at the beginning of the sentence so that "The investment earnings on the additional bonds" reads "of the investment earnings or the additional bonds." The Joint Committee ratified the correction at its August 5, 2008, meeting.

Editor's Note — Laws of 2005, ch. 497, § 8 provides as follows:

"SECTION 8. Nothing in Laws of 2005, Chapter 497, shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before January 1, 2005 or are begun thereafter. The provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before January 1, 2005, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

§ 57-1-309. Bonds; payment of principal and interest; details.

The principal of and interest on the bonds authorized under Section 57-1-307 shall be payable in the manner provided in this section. Such bonds shall bear such date or dates, be in such denomination or denominations, bear interest at such rate or rates (not to exceed the limits set forth in Section 75-17-101, Mississippi Code of 1972), be payable at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times not to exceed twenty-five (25) years from date of issue, be redeemable before maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by resolution of the State Bond Commission.

SOURCES: Laws, 1994, ch. 570, § 5, eff from and after passage (approved April 7, 1994).

§ 57-1-311. Bonds; execution.

The bonds authorized by Section 57-1-307 shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the commission shall be affixed thereto, attested by the Secretary of the State Bond Commission. The interest coupons, if any, to be attached to such bonds may be executed by the facsimile signatures of such officers. Whenever any such bonds shall have been signed by the officials designated to sign the bonds who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until their delivery to the purchaser, or had been in office on the date such bonds may bear. However, notwithstanding anything herein to the contrary, such bonds may be issued as provided in the Registered Bond Act of the State of Mississippi.

SOURCES: Laws, 1994, ch. 570, § 6, eff from and after passage (approved April 7, 1994).

Cross References — State Bond Commission generally, see § 31-17-1 et seq.
Registered Bond Act, see Chapter 21, Title 31.

§ 57-1-313. Bonds; negotiability.

All bonds and interest coupons issued under the provisions of Sections 57-1-307 through 57-1-335 have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code, and in exercising the powers granted by this chapter, the State Bond Commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

SOURCES: Laws, 1994, ch. 570, § 7, eff from and after passage (approved April 7, 1994).

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.
Negotiable instruments under the Mississippi Uniform Commercial Code, see §§ 75-3-101 et seq.

§ 57-1-315. Bonds; issuance and sale; redemption.

The State Bond Commission shall act as issuing agent for the bonds authorized under Section 57-1-307, prescribe the form of the bonds, determine the appropriate method for sale of the bonds, advertise for and accept bids or negotiate the sale of the bonds, issue and sell the bonds so authorized to be sold, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The State Bond Commission is authorized and empowered to pay the costs that are incident to the sale, issuance and delivery of the bonds authorized under Sections 57-1-307 through 57-1-335 from the proceeds derived from the sale of such bonds. The State Bond Commission may sell such bonds on sealed bids at public sale or may negotiate the sale of the bonds for such price as it may determine to be for the best interest of the State of Mississippi. All interest accruing on such bonds so issued shall be payable semiannually or annually.

If such bonds are sold by sealed bids at public sale, notice of the sale shall be published at least one time, not less than ten (10) days before the date of sale, and shall be so published in one or more newspapers published or having a general circulation in the City of Jackson, Mississippi, selected by the commission.

The State Bond Commission, when issuing any bonds under the authority of Sections 57-1-307 through 57-1-335, may provide that bonds, at the option of the State of Mississippi, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

SOURCES: Laws, 1994, ch. 570, § 8; Laws, 2009, ch. 557, § 15, eff from and after passage (approved Apr. 17, 2009.)

§ 57-1-317. Bonds; general obligations of state.

The bonds issued under the provisions of Sections 57-1-307 through 57-1-335 are general obligations of the State of Mississippi, and for the payment thereof the full faith and credit of the State of Mississippi is irrevocably pledged. If the funds appropriated by the Legislature are insufficient to pay the principal of and the interest on such bonds as they become due, then the deficiency shall be paid by the State Treasurer from any funds in the State Treasury not otherwise appropriated. All such bonds shall contain recitals on their faces substantially covering the provisions of this section.

SOURCES: Laws, 1994, ch. 570, § 9, eff from and after passage (approved April 7, 1994).

§ 57-1-319. Bonds; disposition of proceeds of sale.

Upon the issuance and sale of bonds under the provisions of Sections 57-1-307 through 57-1-335, the State Bond Commission shall transfer the proceeds of any such sale or sales to the special fund created in Section 57-1-303. The proceeds of such bonds shall be disbursed solely upon the order of the Department of Economic and Community Development under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds.

SOURCES: Laws, 1994, ch. 570, § 10, eff from and after passage (approved April 7, 1994).

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — State Bond commission generally, see §§ 31-17-1 et seq.

§ 57-1-321. Bonds; conditions for issuance.

The bonds authorized under Sections 57-1-307 through 57-1-335 may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by Sections 57-1-307 through 57-1-335. Any resolution providing for the issuance of bonds under the provisions of Sections 57-1-307 through 57-1-335 shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular or special meeting of the State Bond Commission by a majority of its members.

SOURCES: Laws, 1994, ch. 570, § 11, eff from and after passage (approved April 7, 1994).

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

§ 57-1-323. Bonds; validation.

The bonds authorized under the authority of Sections 57-1-307 through 57-1-335 may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The notice to taxpayers required by such statutes shall be published in a newspaper published or having a general circulation in the City of Jackson, Mississippi.

SOURCES: Laws, 1994, ch. 570, § 12, eff from and after passage (approved April 7, 1994).

§ 57-1-325. Bonds; protection and enforcement of rights of holders.

Any holder of bonds issued under the provisions of Sections 57-1-307 through 57-1-335 or of any of the interest coupons pertaining thereto may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights granted under Sections 57-1-307 through 57-1-335, or under such resolution, and may enforce and compel performance of all duties required by Sections 57-1-307 through 57-1-335 to be performed, in order to provide for the payment of bonds and interest thereon.

SOURCES: Laws, 1994, ch. 570, § 13, eff from and after passage (approved April 7, 1994).

§ 57-1-327. Bonds; legal investments and legal securities.

All bonds issued under the provisions of Sections 57-1-307 through 57-1-335 shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi, and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

SOURCES: Laws, 1994, ch. 570, § 14, eff from and after passage (approved April 7, 1994).

§ 57-1-329. Bonds; exemption from taxation.

Bonds issued under the provisions of Sections 57-1-307 through 57-1-335 and income therefrom shall be exempt from all taxation in the State of Mississippi.

SOURCES: Laws, 1994, ch. 570, § 15, eff from and after passage (approved April 7, 1994).

§ 57-1-331. Bonds; use of proceeds.

The proceeds of the bonds issued under Sections 57-1-307 through 57-1-335 shall be used solely for the purposes herein provided, including the costs incident to the issuance and sale of such bonds.

SOURCES: Laws, 1994, ch. 570, § 16, eff from and after passage (approved April 7, 1994).

§ 57-1-333. Bonds; issuance of warrants for payment.

The State Treasurer is authorized to certify to the Department of Finance and Administration the necessity for warrants, and the Executive Director of the Department of Finance and Administration is authorized and directed to issue such warrants, in such amounts as may be necessary to pay when due the principal of, premium, if any, and interest on, or the accreted value of, all bonds issued under Sections 57-1-307 through 57-1-335; and the State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

SOURCES: Laws, 1994, ch. 570, § 17, eff from and after passage (approved April 7, 1994).

§ 57-1-335. Construction of Sections 57-1-307 through 57-1-335.

Sections 57-1-307 through 57-1-335 shall be deemed to be full and complete authority for the exercise of the powers herein granted, but Sections 57-1-307 through 57-1-335 shall not be deemed to repeal or to be in derogation of any existing law of this state.

SOURCES: Laws, 1994, ch. 570, § 18, eff from and after passage (approved April 7, 1994).

PROJECT COUGAR SITING PROPOSAL AND AUTHORITY

SEC.

57-1-351. Definitions.
57-1-353. DECD submission of siting proposal; public agency cooperation and concurrence.
57-1-355. DECD powers concerning projects.
57-1-357. Board authority to support project.
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57-1-367. Minority small business concern expenditures; DECD authority.
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§ 57-1-351. Definitions.

Words and phrases used in Sections 57-1-351 through 57-1-369 shall have meanings as follows, unless the context clearly indicates a different meaning:

(a) "Bonds" means general obligation bonds, interim notes and other evidences of debt of the State of Mississippi issued pursuant to Sections 57-1-351 through 57-1-369.

(b) "DECD" means the Department of Economic and Community Development.

(c) "Facility related to the project" means and includes any of the following, as the same may pertain to the project within the project area: (i) facilities to provide potable and industrial water supply systems, sewage and waste disposal systems and water, natural gas and electric transmission systems to the site of the project; (ii) airports, airfields and air terminals; (iii) rail lines; (iv) port facilities; (v) highways, streets and other roadways; (vi) public school buildings, classrooms and instructional facilities, including any functionally related facilities; (vii) parks, outdoor recreation facilities and athletic facilities; (viii) auditoriums, pavilions, campgrounds, art centers, cultural centers, folklore centers and other public facilities; and (ix) health care facilities, public or private.

(d) "Person" means any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, governmental unit, public agency, political subdivision, or any other group acting as a unit, and the plural as well as the singular.

(e) "Project" means any private company developed under the name "Project Cougar" that is a heavy manufacturing enterprise which will be located on more than two hundred fifty (250) acres of land, will require a building that contains in excess of five hundred thousand (500,000) square feet and will employ in excess of one thousand (1,000) people at the facility in a full-time capacity.

(f) "Project area" means the project site, together with any area or territory within the state lying within fifteen (15) miles of any portion of the project site whether or not such area or territory be contiguous. The project area shall also include all territory within a county if any portion of such county lies within fifteen (15) miles of any portion of the project site. "Project site" means the real property on which the principal facilities of the enterprise will operate.

(g) "Public agency" means:

(i) Any department, board, commission, institution or other agency or instrumentality of the state;

(ii) Any city, town, county, political subdivision, school district or other district created or existing under the laws of the state or any public agency of any such city, town, county, political subdivision or district;

(iii) Any department, commission, agency or instrumentality of the United States of America; and

(iv) Any other state of the United States of America which may be cooperating with respect to location of the project within the state, or any agency thereof.

(h) "State" means State of Mississippi.

SOURCES: Laws, 1998, ch. 301, § 1, eff from and after passage (approved February 9, 1998).

Editor's Note — Laws of 1998, ch. 301, § 11 provides:

"SECTION 11. This act shall take effect and be in force from and after its passage and shall stand repealed from and after July 1, 1999, unless prior to such date the Executive Director of the Department of Economic and Community Development files an affidavit with the Secretary of State certifying that the State of Mississippi has been finally selected as the site of the project."

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-1-353. DECD submission of siting proposal; public agency cooperation and concurrence.

DECD is hereby designated and empowered to act on behalf of the state in submitting a siting proposal for the project eligible for assistance under Sections 57-1-351 through 57-1-369. DECD is empowered to take all steps appropriate or necessary to effect the siting, development, and operation of the project within the state. If the state is selected as the preferred site for the project, DECD is hereby designated and empowered to act on behalf of the state and to represent the state in the planning, financing, development, construction and operation of the project or any facility related to the project, with the concurrence of the affected public agency. DECD may take affirmative steps to coordinate fully all aspects of the submission of a siting proposal for the project and, if the state is selected as the preferred site, to coordinate fully, with the concurrence of the affected public agency, the development of the project or any facility related to the project with private business, the United States government and other public agencies. All public agencies are encouraged to cooperate to the fullest extent possible to effectuate the duties of DECD; however, the development of the project or any facility related to the project by DECD may be done only with the concurrence of the affected public agency.

SOURCES: Laws, 1998, ch. 301, § 2, eff from and after passage (approved February 9, 1998).

Editor's Note — Laws of 1998, ch. 301, § 11 provides:

"SECTION 11. This act shall take effect and be in force from and after its passage and shall stand repealed from and after July 1, 1999, unless prior to such date the Executive Director of the Department of Economic and Community Development files an affidavit with the Secretary of State certifying that the State of Mississippi has been finally selected as the site of the project."

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-1-355. DECD powers concerning projects.

DECD, in addition to any and all powers now or hereafter granted to it, is empowered and shall exercise discretion and the use of these powers depending on the circumstances of the project or projects:

(a) To employ or contract with architects, engineers, attorneys, accountants, construction and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix and pay their compensation.

(b) To make such applications and enter into such contracts for financial assistance as may be appropriate under applicable federal or state law.

(c) To apply for, accept and utilize grants, gifts and other funds or aid from any source for any purpose contemplated by Sections 57-1-351 through 57-1-369, and to comply, subject to the provisions of Sections 57-1-351 through 57-1-369, with the terms and conditions thereof.

(d) To acquire by purchase or lease any public lands and public property, including sixteenth section lands and lieu lands, within the project area, which are necessary for the project. Sixteenth section lands or lieu lands acquired under Sections 57-1-351 through 57-1-369 shall be deemed to be acquired for the purposes of industrial development thereon and such acquisition will serve a higher public interest in accordance with the purposes of Sections 57-1-351 through 57-1-369.

(e) If DECD identifies any land owned by the state as being necessary, for the location or use of the project, or any facility related to the project, to recommend to the Legislature the conveyance of such land or any interest therein, as the Legislature deems appropriate.

(f) To make or cause to be made such examinations and surveys as may be necessary to the planning, design, construction and operation of the project.

(g) From and after the date of notification to DECD by the enterprise that the state has been finally selected as the site of the project, to acquire by condemnation and to own, maintain, use, operate and convey or otherwise dispose of any and all property of any kind, real, personal or mixed, or any interest or estate therein, within the project area, necessary for the project or any facility related to the project, with the concurrence of the affected public agency, and the exercise of the powers granted by Sections 57-1-351 through 57-1-369, according to the procedures provided by Chapter 27, Title 11, Mississippi Code of 1972, except as modified by Sections 57-1-351 through 57-1-369.

(i) In acquiring lands by condemnation, DECD shall not acquire minerals or royalties in minerals unless a competent registered professional engineer shall have certified that the acquisition of such minerals and royalties in minerals is necessary for purposes of the project; provided that limestone, clay, chalk, sand and gravel shall not be considered as minerals within the meaning of this section; and

(ii) Unless minerals or royalties in minerals have been acquired by condemnation or otherwise, no person or persons owning the drilling rights or the right to share in production of minerals shall be prevented from exploring, developing, or producing oil or gas with necessary rights-of-way for ingress and egress, pipelines and other means of transporting interests on any land or interest therein of the authority held or used for the purposes of Sections 57-1-351 through 57-1-369; but any such activities shall be under such reasonable regulation by DECD as will adequately protect the project contemplated by Sections 57-1-351 through 57-1-369 as provided in paragraph (r) of this section.

(h) To negotiate the necessary relocation or rerouting of roads and highways, railroad, telephone and telegraph lines and properties, electric power lines, pipelines and related facilities, or to require the anchoring or other protection of any of these, provided due compensation is paid to the owners thereof or agreement is had with such owners regarding the payment of the cost of such relocation, and to acquire by condemnation or otherwise easements or rights-of-way for such relocation or rerouting and to convey the same to the owners of the facilities being relocated or rerouted in connection with the purposes of Sections 57-1-351 through 57-1-369.

(i) To negotiate the necessary relocation of cemeteries and to pay all reasonable costs thereof.

(j) To perform or have performed any and all acts and make all payments necessary to comply with all applicable federal laws, rules or regulations including but not limited to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, 4602, 4621 to 4638, and 4651 to 4655) and relocation rules and regulations promulgated by any agency or department of the federal government.

(k) To construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained, and reconstructed, and to use and operate any and all components of the project or any facility related to the project, with the concurrence of the affected public agency, within the project area, necessary to the project and to the exercise of such powers, rights, and privileges granted DECD.

(*l*) To incur or defray any designated portion of the cost of any component of the project or any facility related to the project acquired or constructed by any public agency.

(m) To lease, sell or convey any or all property acquired by DECD under the provisions of Sections 57-1-351 through 57-1-369 to the enterprise, its successors or assigns, and in connection therewith to pay the costs of title search, perfection of title, title insurance and recording fees as may be required. DECD may provide in the instrument conveying such property a provision that such property shall revert to DECD if, as and when the property is declared by the enterprise to be no longer needed.

(n) To enter into contracts with any person or public agency including, but not limited to, contracts authorized by Section 57-1-363, in furtherance of any of the purposes authorized by Sections 57-1-351 through 57-1-369 upon such consideration as DECD and such person or public agency may agree. Any such contract may extend over any period of time, notwithstanding any rule of law to the contrary, may be upon such terms as the parties thereto shall agree, and may provide that it shall continue in effect until bonds specified therein, refunding bonds issued in lieu of such bonds, and all other obligations specified therein are paid or terminated. Any such contract shall be binding upon the parties thereto according to its terms. Such contracts may include an agreement to reimburse the enterprise, its successors and assigns for any assistance provided by the enterprise in the acquisition of real property for the project or any facility related to the project.

(o) To establish and maintain reasonable rates and charges for the use of any facility within the project area owned or operated by DECD, and from time to time to adjust such rates and to impose penalties for failure to pay such rates and charges when due.

(p) To adopt and enforce with the concurrence of the affected public agency all necessary and reasonable rules and regulations to carry out and effectuate the implementation of the project and any land use plan or zoning classification adopted for the project area, including but not limited to rules, regulations, and restrictions concerning mining, construction, excavation or any other activity the occurrence of which may endanger the structure or operation of the project. Such rules may be enforced within the project area and without the project area as necessary to protect the structure and operation of the project. DECD is authorized to plan or replan, zone or rezone, and make exceptions to any regulations, whether local or state, with the concurrence of the affected public agency which are inconsistent with the design, planning, construction or operation of the project and facilities related to the project.

(q) To plan, design, coordinate and implement measures and programs to mitigate impacts on the natural environment caused by the project or any facility related to the project.

(r) To develop plans for technology transfer activities to ensure private sector conduits for exchange of information, technology and expertise related to the project to generate opportunities for commercial development within the state.

(s) To consult with the State Department of Education and other public agencies for the purpose of improving public schools and curricula within the project area.

(t) To consult with the State Board of Health and other public agencies for the purpose of improving medical centers, hospitals and public health centers in order to provide appropriate health care facilities within the project area.

(u) To consult with the Office of Minority Business Enterprise Development and other public agencies for the purpose of developing plans for technical assistance and loan programs to maximize the economic impact related to the project for minority business enterprises within the State of Mississippi.

(v) To promulgate rules and regulations necessary to effectuate the purposes of Sections 57-1-351 through 57-1-369.

SOURCES: Laws, 1998, ch. 301, § 3, eff from and after passage (approved February 9, 1998).

Editor's Note — Laws of 1998, ch. 301, § 11 provides:

"SECTION 11. This act shall take effect and be in force from and after its passage and shall stand repealed from and after July 1, 1999, unless prior to such date the Executive Director of the Department of Economic and Community Development files an affidavit with the Secretary of State certifying that the State of Mississippi has been finally selected as the site of the project."

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Eminent domain generally, see Chapter 27, Title 11.

Sixteenth section and lieu lands generally, see §§ 29-3-1 et seq.

State Department of Education generally, see §§ 37-3-1 et seq.

State Board of Health generally, see §§ 41-3-1 et seq.

Office of Minority Business Enterprises, see § 57-69-5.

§ 57-1-357. Board authority to support project.

The Board of Trustees of State Institutions of Higher Learning is hereby authorized to support the project by creating institutes and developing curricula of direct benefit to the enterprise. Upon notification to DECD by the enterprise that the state has been selected as the site of the project, the Board of Trustees of State Institutions of Higher Learning may establish and create programs to enhance the project's success.

SOURCES: Laws, 1998, ch. 301, § 4, eff from and after passage (approved February 9, 1998).

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Laws of 1998, ch. 301, § 11 provides:

"SECTION 11. This act shall take effect and be in force from and after its passage and shall stand repealed from and after July 1, 1999, unless prior to such date the Executive Director of the Department of Economic and Community Development files an affidavit with the Secretary of State certifying that the State of Mississippi has been finally selected as the site of the project."

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

§ 57-1-359. DECD loans to counties or municipalities to further project.

DECD shall utilize not more than the amount of the proceeds of the bonds authorized to be issued under Section 6(3)(b) of Chapter 301, Laws of 1998, for the purpose of making interest-bearing loans to counties or municipalities in order for such counties or municipalities to lend to the private company that falls under the definition of the term "project," the proceeds of the loan from DECD to any such county or municipality.

SOURCES: Laws, 1998, ch. 301, § 5, eff from and after passage (approved February 9, 1998).

Editor's Note — Laws of 1998, ch. 301, § 6 concerns state bonding authority for Project Cougar, and subsection (3)(b) of that section provides:

"SECTION 6. Bonds issued under the authority of this section for the purposes of Section 5 of this act shall not exceed Twenty-five Million Dollars ($25,000,000.00)."

Laws of 1998, ch. 301, § 11 provides:

"SECTION 11. This act shall take effect and be in force from and after its passage and shall stand repealed from and after July 1, 1999, unless prior to such date the Executive Director of the Department of Economic and Community Development files an affidavit with the Secretary of State certifying that the State of Mississippi has been finally selected as the site of the project."

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-1-363. Public agency authority concerning project; contracts with DECD; indebtedness.

For the purpose of aiding in the planning, design, undertaking and carrying out of the project or any facility related to the project, any public agency is authorized and empowered upon such terms, with or without consideration, as it may determine:

(a) To enter into agreements, which may extend over any period, with DECD respecting action to be taken by such public agency with respect to the acquisition, planning, construction, improvement, operation, maintenance or funding of the project or any such facility, and which agreements may include (i) the appropriation or payment of funds to DECD or to a trustee in amounts which shall be sufficient to enable DECD to defray any designated portion or percentage of the expenses of administering, planning, designing, constructing, acquiring, improving, operating, and maintaining the project or any facility related to the project, (ii) the appropriation or payment of funds to DECD or to a trustee to pay interest and principal (whether at maturity or upon sinking fund redemption) on bonds issued pursuant to Sections 57-1-351 through 57-1-369 and to fund reserves for debt service, for operation and maintenance and for renewals and replacements, and to fulfill requirements of any covenant with respect to debt service contained in any resolution, trust indenture or other security agreement relating to the bonds issued pursuant to Sections 57-1-351 through 57-1-369, and (iii) the furnishing of other assistance in connection with the project or facility related to the project;

(b) To dedicate, sell, donate, convey or lease any property or interest in property to DECD or grant easements, licenses or other rights or privileges therein to DECD;

(c) To incur the expense of any public improvements made or to be made by such public agency in exercising the powers granted in this section;

(d) To lend, grant or contribute funds to DECD;

(e) To cause public buildings and public facilities, including parks, playgrounds, recreational areas, community meeting facilities, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished to or with respect to the project or any such facility;

(f) To furnish, dedicate, close, vacate, pave, install, upgrade or improve highways, streets, roads, sidewalks, airports, railroads, or ports;

(g) To plan or replan, zone or rezone any parcel of land within the public agency or make exceptions from land use, building and zoning regulations; and

(h) To cause administrative and other services to be furnished to DECD, including services pertaining to the acquisition of real property and the furnishing of relocation assistance.

Any contract between a public agency entered into with DECD pursuant to any of the powers granted by Sections 57-1-351 through 57-1-369 shall be binding upon the public agency according to its terms, and such public agency shall have the power to enter into such contracts as in the discretion of the governing authorities thereof would be to the best interest of the people of such public agency. Such contracts may include within the discretion of such governing authorities of public agencies defined under Section 57-1-351(g)(ii) a pledge of the full faith and credit of such public agency for the performance thereof. If at any time title to or possession of the project or any such facility is held by any public body or governmental agency other than DECD, including any agency or instrumentality of the United States of America, the agreements referred to in this section shall inure to the benefit of and may be enforced by such public body or governmental agency.

Notwithstanding any provisions of Sections 57-1-351 through 57-1-369 to the contrary, any contract entered into between DECD and any public agency for the appropriation or payment of funds to DECD under paragraph (a)(ii) of this section shall contain a provision therein requiring monthly payments by the public agency to pay its indebtedness and, if the public agency is not a county or municipality, such contract shall include as an additional party to the contract the county or municipality (referred to in this paragraph as "levying authority") that levies and collects taxes for the contracting public agency. If the public agency fails to pay its indebtedness for any month, DECD shall certify to the State Tax Commission, or other appropriate agency, the amount of the delinquency, and the State Tax Commission shall deduct such amount from the public agency's or levying authority's, as the case may be, next allocation of sales taxes, petroleum taxes, highway privilege taxes, severance taxes, Tennessee Valley Authority payments in lieu of taxes and homestead exemption reimbursements in that order of priority. The State Tax Commission, or other appropriate agency, shall pay the sums so deducted to DECD to be applied to the discharge of the contractual obligation.

SOURCES: Laws, 1998, ch. 301, § 7, eff from and after passage (approved February 9, 1998).

Editor's Note — Laws of 1998, ch. 301, § 11 provides:

"SECTION 11. This act shall take effect and be in force from and after its passage and shall stand repealed from and after July 1, 1999, unless prior to such date the Executive Director of the Department of Economic and Community Development files an affidavit with the Secretary of State certifying that the State of Mississippi has been finally selected as the site of the project."

Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of

Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Department of Revenue generally, see §§ 27-3-1 et seq.

Tennessee Valley Authority payments in lieu of taxes, see §§ 27-37-301 through 27-37-307.

§ 57-1-365. Concurrence of county, municipality and/or school district.

DECD shall not undertake to develop any project or facility related to the project within a county, municipality and/or school district without the concurrence of the affected county, municipality and/or school district.

SOURCES: Laws, 1998, ch. 301, § 8, eff from and after passage (approved February 9, 1998).

Editor's Note — Laws of 1998, ch. 301, § 11 provides:

"SECTION 11. This act shall take effect and be in force from and after its passage and shall stand repealed from and after July 1, 1999, unless prior to such date the Executive Director of the Department of Economic and Community Development files an affidavit with the Secretary of State certifying that the State of Mississippi has been finally selected as the site of the project."

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-1-367. Minority small business concern expenditures; DECD authority.

(1)(a) DECD shall set a goal to expend not less than ten percent (10%) of the total amounts expended by DECD on planning, construction, training, research, development, testing, evaluation, personal services, procurement, and for the operation and maintenance of any facilities or activities controlled by DECD, with minority small business concerns owned and controlled by socially and economically disadvantaged individuals. For the purpose of determining the total amounts expended with such minority small business concerns, credit shall be given for that portion of any prime contract entered into with DECD which inures to the benefit of such minority small business concern as a subcontractor thereunder.

(b) For the purposes of this section, the term "socially and economically disadvantaged individuals" shall have the meaning ascribed to such term under Section 8(d) of the Small Business Act (15 U.S.C.S., Section 637(d)) and relevant subcontracting regulations promulgated pursuant thereto.

(c) For the purposes of this section, the term "minority small business concern" means any small business concern:

(i) Which is at least fifty-one percent (51%) owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned businesses, at least fifty-one percent (51%) of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) Whose management and daily business operations are controlled by one or more of such individuals.

(d) For the purpose of this section, the term "small business concern" shall mean "small business" as the latter term is defined in Section 57-10-155, Mississippi Code of 1972.

(2) In order to comply in a timely manner with its minority small business participation mandate, DECD shall set an annual goal to expend not less than ten percent (10%) of its aggregate yearly expenditures with minority small business concerns.

(3) DECD shall:

(a) Monitor the minority small business concerns assistance programs prescribed in this section.

(b) Review and determine the business capabilities of minority small business concerns.

(c) Establish standards for a certification procedure for minority small business concerns seeking to do business with DECD.

(d) Provide technical assistance services to minority small business concerns. Such technical assistance shall include but not be limited to:

(i) Research;

(ii) Assistance in obtaining bonds;

(iii) Bid preparation;

(iv) Certification of business concerns;

(v) Marketing assistance; and

(vi) Joint venture and capital development.

(e) Develop alternative bidding and contracting procedures for minority small business concerns in conjunction with the Department of Finance and Administration.

(f) Utilize such alternative bidding and contracting procedures in lieu of those prescribed in Title 31, Chapters 5 and 7, Mississippi Code of 1972, when contracting with minority small business concerns that have qualified to bid for contracts and have satisfied any other disclosure provisions required by DECD.

(g) Be authorized to accept in lieu of any bond otherwise required from minority small business concerns or small business concerns contracting with DECD, in an amount equal to one hundred percent (100%) of the total cost of the contracted project, any combination of the following:

(i) Cash;

(ii) Certificates of deposit from any bank or banking corporation insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;

(iii) Federal treasury bills;

(iv) Letters of credit issued by a bank as that term is defined in Section 81-3-1, Mississippi Code of 1972; or

(v) Surety bonds issued by an insurance company licensed and qualified to do business in the State of Mississippi.

(h) Be authorized, in its discretion, to waive any bond required on any project which does not exceed a total dollar value of One Hundred Thousand Dollars ($100,000.00). A retainage shall be held by the authority in an amount not to exceed fifteen percent (15%) from each draw according to American Institute of Architects (AIA) standards. Upon satisfactory completion of such project, ten percent (10%) of the total cost of the contract shall be held in an interest-bearing escrow account for one (1) year. Funds deposited in such escrow account shall stand as a surety for any defects in workmanship or materials detected within twelve (12) months of completion. The balance of all monies so escrowed including accrued interest shall be paid to the contractor at the end of such twelve-month period.

(i) Be empowered to provide an incentive of bimonthly payments to any prime contractors utilizing minority small business concerns as subcontractors on twenty-five percent (25%) or more of the total dollar value of any single project or contract.

(j) Submit an annual report on its progress concerning minority small business contracts to the Legislature by January 30 of each year.

(k) Take all steps necessary to implement the provisions of this section.

SOURCES: Laws, 1998, ch. 301, § 9, eff from and after passage (approved February 9, 1998).

Editor's Note — Laws of 1998, ch. 301, § 11 provides:

"SECTION 11. This act shall take effect and be in force from and after its passage and shall stand repealed from and after July 1, 1999, unless prior to such date the Executive Director of the Department of Economic and Community Development files an affidavit with the Secretary of State certifying that the State of Mississippi has been finally selected as the site of the project."

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — The Comprehensive Small Businessman Act of 1983, see §§ 57-10-51 through 57-10-169.

Federal Aspects — The Small Business Act is codified at 15 U.S.C.S. §§ 631 et seq.

§ 57-1-369. Cumulative provisions; severability.

The provisions of Sections 57-1-351 through 57-1-369 are cumulative of other statutes now or hereafter enacted relating to DECD, and DECD may exercise all presently held powers in the furtherance of Sections 57-1-351 through 57-1-369. If any section, paragraph, sentence, clause, phrase or any part of the provisions of Sections 57-1-351 through 57-1-369 is declared to be unconstitutional or void, or for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses and phrases shall in no manner be affected thereby but shall remain in full force and effect.

SOURCES: Laws, 1998, ch. 301, § 10, eff from and after passage (approved February 9, 1998).

Editor's Note — Laws of 1998, ch. 301, § 11 provides:

"SECTION 11. This act shall take effect and be in force from and after its passage and shall stand repealed from and after July 1, 1999, unless prior to such date the Executive Director of the Department of Economic and Community Development files an affidavit with the Secretary of State certifying that the State of Mississippi has been finally selected as the site of the project."

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

PENALTIES UNDER CERTAIN PROGRAMS ADMINISTERED BY THE MISSISSIPPI DEVELOPMENT AUTHORITY FOR ENTITIES THAT ARE CONVICTED OF HIRING ILLEGAL IMMIGRANTS

SEC.	
57-1-371.	Ineligibility for loans or grants under Sections 1 through 57 of Chapter 1, Laws of 2005, Third Extraordinary Session, of entities that are convicted of hiring illegal immigrants; repayment of assistance received under Sections 1 through 57 of Chapter 1, Laws of 2005, Third Extraordinary Session, by entities that are convicted of hiring illegal immigrants.
57-1-373.	Ineligibility for certain forms of assistance under Sections 1 through 7 of Chapter 2, Laws of 2006, First Extraordinary Session, of entities that are convicted of hiring illegal immigrants; repayment of assistance received under Sections 1 through 7 of Chapter 2, Laws of 2006, First Extraordinary Session, by entities that are convicted of hiring illegal immigrants.

§ 57-1-371. Ineligibility for loans or grants under Sections 1 through 57 of Chapter 1, Laws of 2005, Third Extraordinary Session, of entities that are convicted of hiring illegal immigrants; repayment of assistance received under Sections 1 through 57 of Chapter 1, Laws of 2005, Third Extraordinary Session, by entities that are convicted of hiring illegal immigrants.

Any business, enterprise or other entity that is criminally convicted by a court of competent jurisdiction of intentionally hiring illegal immigrants shall be ineligible to receive any loan, grant or other form of assistance made available under Sections 1 through 57 of Chapter 1, Laws of 2005, Third Extraordinary Session. Any business, enterprise or other entity that receives any loan, grant or other form of assistance made available under Sections 1 through 57 of Chapter 1, Laws of 2005, Third Extraordinary Session, and is criminally convicted by a court of competent jurisdiction of intentionally hiring illegal immigrants shall repay the full amount of such loan, grant or other form of assistance.

SOURCES: Laws, 2005, 3rd Ex Sess, ch. 1, § 60, eff from and after July 1, 2005.

Editor's Note — Section 1 of Chapter 1, Laws of 2005, Third Extraordinary Session, is codified as Section 57-93-1. Sections 38, 39, 56 and 57 of Chapter 1, Laws of 2005, Third Extraordinary Session, are codified as Sections 57-1-10, 57-95-1, 27-7-22.28 and 27-7-22.29, respectively.

§ 57-1-373. Ineligibility for certain forms of assistance under Sections 1 through 7 of Chapter 2, Laws of 2006, First Extraordinary Session, of entities that are convicted of hiring illegal immigrants; repayment of assistance received under Sections 1 through 7 of Chapter 2, Laws of 2006, First Extraordinary Session, by entities that are convicted of hiring illegal immigrants.

(1) No business, enterprise or other entity that is, or has ever been, criminally convicted by a court of competent jurisdiction of intentionally hiring illegal immigrants that develops or is located in a "project" as defined in Section 57-75-5(f)(xx) shall be eligible to receive:

(a) Any funds provided or derived from the issuance of any bonds under Sections 1 through 7 of Chapter 2, Laws of 2006, First Extraordinary Session.

(b) Any loan, grant or other form of assistance that may be made available under Sections 1 through 7 of Chapter 2, Laws of 2006, First Extraordinary Session; or

(c) Any funds, tax credit or other form of assistance that may be made available as an incentive payment under Sections 1 through 7 of Chapter 2, Laws of 2006, First Extraordinary Session.

(2) If a business, enterprise or other entity that develops or is located in a "project" as defined in Section 57-75-5(f)(xx) has received funds or assistance as described in paragraphs (a) through (c) of subsection (1) of this section, and thereafter is convicted by a court of competent jurisdiction of intentionally hiring illegal immigrants, then the business, enterprise or other entity shall repay the full amount of the funds or assistance received. The repayment shall be certified by the State Treasurer, who shall deposit such amounts into the specific special fund in the State Treasury from which the funds were awarded, or, in the case of incentive payments under Sections 57-28-1 through 57-28-5, into the State General Fund.

SOURCES: Laws, 2006, 1st Ex Sess, ch. 2, § 8, eff from and after passage (approved Sept. 13, 2006).

Editor's Note — Sections 1 through 7 of Chapter 2, Laws of 2006, First Extraordinary Session, are codified as Sections 57-75-5, 57-75-11, 57-75-15, 57-28-1, 57-28-3, 57-28-5, and 27-65-75, respectively.

MISSISSIPPI DEVELOPMENT AUTHORITY WORKFORCE TRAINING FUND

SEC.

57-1-401. Mississippi Development Authority Workforce Training Fund created; use of funds.

§ 57-1-401. Mississippi Development Authority Workforce Training Fund created; use of funds.

(1) A special fund, to be designated as the "Mississippi Development Authority Workforce Training Fund," is created within the State Treasury into which shall be deposited money from any source that is designated for deposit therein. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund.

(2) All money deposited into the Mississippi Development Authority Workforce Training Fund shall be disbursed by the Mississippi Development Authority to provide workforce training through state institutions of higher learning, community and junior colleges, and Workforce Investment Network job centers to meet workforce training needs not met by other resources. Employers may request training for existing employees and/or newly hired employees from the Mississippi Development Authority. The Mississippi Development Authority shall establish criteria for utilization of the money in the fund and be responsible for approving the training.

SOURCES: Laws, 2010, 2nd Ex Sess, ch. 30, § 1, eff from and after passage (approved Sept. 3, 2010.)

MISSISSIPPI ALTERNATIVE FUEL SCHOOL BUS AND MUNICIPAL MOTOR VEHICLE REVOLVING LOAN FUND

SEC.

57-1-421. Mississippi Alternative Fuel School Bus and Municipal Motor Vehicle Revolving Loan Fund created; purpose; use of funds.

§ 57-1-421. Mississippi Alternative Fuel School Bus and Municipal Motor Vehicle Revolving Loan Fund created; purpose; use of funds.

(1) As used in this subsection:

(a) "Alternative fuel" means compressed natural gas and liquefied natural gas, as defined in Section 27-59-3, and propane fuel when used as a fuel in a motor vehicle or motor vehicles on the highways of the state.

(b) "Alternative fuel school bus" means a school bus propelled by alternative fuel either as a dedicated alternative fuel vehicle, as a bi-fuel vehicle using alternative fuel as one of its fuels, or as a dual-fuel vehicle using alternative fuel as one of its fuels.

(c) "Conversion kit" means the fuel system equipment necessary in order to retrofit a motor vehicle propelled by gasoline, diesel or other fuel so that the motor vehicle may be converted or modified into an alternative fuel motor vehicle.

(d) "Cost of qualified alternative fuel motor vehicle fuel property" means any of the following:

(i) The actual cost per school bus paid by the school district for the purchase and installation of qualified alternative fuel motor vehicle fuel property described in paragraph (*l*)(i) of this subsection.

(ii) The incremental cost per school bus paid by the school district upon the purchase of an OEM alternative fuel school bus for the qualified alternative fuel motor vehicle fuel property (including installation) described in paragraph (*l*)(ii) of this subsection.

(iii) The cost of the qualified alternative fuel motor vehicle fuel property described in paragraph (*l*)(iii) of this subsection and its installation.

(iv) The cost of the qualified alternative fuel motor vehicle fuel property described in paragraph (*l*)(iv) of this subsection and its construction and installation. The cost directly related to a refueling station shall not include costs associated with exploration and development activities necessary for severing natural resources from the soil or ground.

(e) "Fuel system equipment" means tanks, pumps, hoses, injectors, electronic controls and related supplies, materials, parts and components for the storage of alternative fuel as fuel for an alternative fuel school bus, the delivery of alternative fuel to the engine of an alternative fuel school bus, and the exhaust from an alternative fuel school bus of gases from combustion of alternative fuel used to propel an alternative fuel school bus, excluding equipment necessary for operation of a school bus on gasoline, diesel or any fuel other than alternative fuel.

(f) "Incremental cost" means:

(i) The stated MSRP of the fuel system equipment and its installation for an OEM alternative fuel school bus; or

(ii) If no separate MSRP is stated, the difference between the MSRP of the OEM alternative fuel school bus and the MSRP of the same make and model of school bus manufactured without the fuel system equipment but otherwise identically equipped.

When an OEM alternative fuel school bus is sold for less (or more) than its MSRP, the amount determined in subparagraph (i) or (ii) of this paragraph (f) shall be proportionately reduced (or increased) by the same percentage as the discount (or premium) on the MSRP, as applicable.

(g) "School district" means a public school district.

(h) "OEM alternative fuel motor vehicle" means an alternative fuel school bus manufactured by the original vehicle manufacturer (or its contractor) with the fuel system equipment installed as original equipment by the manufacturer (or its contractor) at the factory or at another installation site approved by the manufacturer (or its contractor).

(i) "Motor vehicle" shall have the meaning ascribed to such term in Section 27-59-3.

(j) "MSRP" means manufacturer's suggested retail price.

(k) "Original purchase" means the purchase directly from a dealer at retail of a new OEM alternative fuel school bus which has never been titled.

(*l*) "Qualified alternative fuel motor vehicle fuel property" means any of the following:

(i) A conversion kit which has not previously been used to retrofit any motor vehicle and is installed and results in a reduction in emissions.

(ii) The fuel system equipment on an OEM alternative fuel school bus which results in a reduction in emissions.

(iii) A refueling system installed at a governmental entity location for the nonpublic refueling with alternative fuel of the governmental entity's alternative fuel school buses.

(iv) A refueling station located in the state and operated by a school district for refueling of alternative fuel motor vehicles owned by the school district.

(v) Upgrades to a refueling system included in subparagraphs (iii) and (iv) of this paragraph (*l*).

(vi) Portable or mobile refueling systems.

(m) "Reduction in emissions" means a reduction in atmospheric emissions from fuel consumption by an alternative fuel motor vehicle as demonstrated by certification of the fuel system equipment by the federal Environmental Protection Agency or the Mississippi Department of Environmental Quality or any other test or standard recognized by the Mississippi Department of Environmental Quality.

(n) "Refueling system" means compressors (whether used separately or in combination with cascade tanks), process piping, hoses, dispensing units at the point where alternative fuel is delivered as a fuel, meters and other parts and equipment and installation supplies and materials therefor that constitute a refueling system capable of dispensing alternative fuel into fuel tanks of alternative fuel motor vehicles for use as a fuel.

(o) "Refueling station" means property constituting a facility operated for dispensing alternative fuel into fuel tanks of alternative fuel motor vehicles, which shall include:

(i) A refueling system; and

(ii) A building or other structural components constructed or installed as part of and directly related to such refueling system.

(p) "Retrofit" means the installation of a conversion kit in a school bus designed to operate on gasoline, diesel or other fuel in order to convert or modify the bus vehicle into an alternative fuel school bus.

(q) "School bus" means a vehicle owned by a school district that is primarily used by the school district to transport students.

(2) As used in this subsection:

(a) "Alternative fuel" means compressed natural gas and liquefied natural gas, as defined in Section 27-59-3, and propane fuel when used as a fuel in a motor vehicle or motor vehicles on the highways of the state.

(b) "Conversion kit" means the fuel system equipment necessary in order to retrofit a motor vehicle propelled by gasoline, diesel or other fuel so that the motor vehicle may be converted or modified into an alternative fuel motor vehicle.

(c) "Cost of qualified alternative fuel motor vehicle fuel property" means any of the following:

(i) The actual cost per vehicle paid by the municipality for the purchase and installation of qualified alternative fuel motor vehicle fuel property described in paragraph (*l*)(i) of this subsection.

(ii) The incremental cost per vehicle paid by the municipality upon the purchase of an OEM alternative fuel motor vehicle for the qualified alternative fuel motor vehicle fuel property (including installation) described in paragraph (*l*)(ii) of this subsection.

(iii) The cost of the qualified alternative fuel motor vehicle fuel property described in paragraph (*l*)(iii) of this subsection and its installation.

(iv) The cost of the qualified alternative fuel motor vehicle fuel property described in paragraph (*l*)(iv) of this subsection and its construction and installation. The cost directly related to a refueling station shall not include costs associated with exploration and development activities necessary for severing natural resources from the soil or ground.

(d) "Fuel system equipment" means tanks, pumps, hoses, injectors, electronic controls and related supplies, materials, parts and components for the storage of alternative fuel as fuel for an alternative fuel motor vehicle, the delivery of alternative fuel to the engine of an alternative fuel motor vehicle, and the exhaust from an alternative fuel motor vehicle of gases from combustion of alternative fuel used to propel an alternative fuel motor vehicle, excluding equipment necessary for operation of a motor vehicle on gasoline, diesel or any fuel other than alternative fuel.

(e) "Incremental cost" means:

(i) The stated MSRP of the fuel system equipment and its installation for an OEM alternative fuel motor vehicle; or

(ii) If no separate MSRP is stated, the difference between the MSRP of the OEM alternative fuel motor vehicle and the MSRP of the same make and model of motor vehicle manufactured without the fuel system equipment but otherwise identically equipped.

When an OEM alternative fuel motor vehicle is sold for less (or more) than its MSRP, the amount determined in subparagraph (i) or (ii) of this paragraph (e) shall be proportionately reduced (or increased) by the same percentage as the discount (or premium) on the MSRP, as applicable.

(f) "Municipality" means an incorporated city, town or village in the State of Mississippi.

(g) "OEM alternative fuel motor vehicle" means an alternative fuel motor vehicle manufactured by the original vehicle manufacturer (or its contractor) with the fuel system equipment installed as original equipment by the manufacturer (or its contractor) at the factory or at another installation site approved by the manufacturer (or its contractor).

(h) "Motor vehicle" shall have the meaning ascribed to such term in Section 27-59-3.

(i) "MSRP" means manufacturer's suggested retail price.

(j) "Alternative fuel motor vehicle" means a motor vehicle propelled by alternative fuel either as a dedicated alternative fuel vehicle, as a bi-fuel vehicle using alternative fuel as one of its fuels, or as a dual fuel vehicle using alternative fuel as one of its fuels.

(k) "Original purchase" means the purchase directly from a dealer at retail of a new OEM alternative fuel motor vehicle which has never been titled.

(*l*) "Qualified alternative fuel motor vehicle fuel property" means any of the following:

(i) A conversion kit which has not previously been used to retrofit any motor vehicle and is installed and results in a reduction in emissions.

(ii) The fuel system equipment on an OEM alternative fuel motor vehicle which results in a reduction in emissions.

(iii) A refueling system installed at a municipality location for the nonpublic refueling with alternative fuel of the municipality's alternative fuel motor vehicles.

(iv) A refueling station located in the state and operated by a municipality for refueling of alternative fuel motor vehicles owned by the municipality.

(v) Upgrades to a refueling system included in subparagraphs (iii) and (iv) of this paragraph (*l*).

(vi) Portable or mobile refueling systems.

(m) "Reduction in emissions" means a reduction in atmospheric emissions from fuel consumption by an alternative fuel motor vehicle as demonstrated by certification of the fuel system equipment by the federal Environmental Protection Agency or the Mississippi Department of Environmental Quality or any other test or standard recognized by the Mississippi Department of Environmental Quality.

(n) "Refueling system" means compressors (whether used separately or in combination with cascade tanks), process piping, hoses, dispensing units at the point where alternative fuel is delivered as a fuel, meters and other parts and equipment and installation supplies and materials therefor that constitute a refueling system capable of dispensing alternative fuel into fuel tanks of alternative fuel motor vehicles for use as a fuel.

(o) "Refueling station" means property constituting a facility operated for dispensing alternative fuel into fuel tanks of alternative fuel motor vehicles, which shall include:

(i) A refueling system; and

(ii) A building or other structural components constructed or installed as part of and directly related to such refueling system.

(p) "Retrofit" means the installation of a conversion kit in a motor vehicle designed to operate on gasoline, diesel or other fuel in order to convert or modify such motor vehicle into an alternative fuel motor vehicle.

(3)(a) The Mississippi Development Authority shall establish a revolving loan program to provide loans to (i) school districts for the purpose of assisting school districts with paying the cost of qualified alternative fuel motor vehicle fuel property and (ii) municipalities for the purpose of assisting municipalities with paying the cost of qualified alternative fuel motor vehicle fuel property. Loans made under this section shall bear no interest.

(b) A school district or municipality desiring a loan under this section must submit an application to the Mississippi Development Authority. The application shall include:

(i) A description of the purpose for which the loan is requested;

(ii) The amount of the loan requested; and

(iii) Any other information required by the Mississippi Development Authority.

(c) Repayments of loans made under this section shall be deposited to the credit of the Mississippi Alternative Fuel School Bus and Municipal Motor Vehicle Revolving Loan Fund.

(4)(a) There is created in the State Treasury a special fund to be designated as the "Mississippi Alternative Fuel School Bus and Municipal Motor Vehicle Revolving Loan Fund," which shall consist of funds appropriated or otherwise made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used by the Mississippi Development Authority for the purposes described in this section.

(b) Monies in the fund which are derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing loans under this section through the use of general obligation bonds. Monies authorized for a particular loan may not be used to reimburse administrative costs for unrelated loans. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(5) The Mississippi Development Authority shall have all powers necessary to implement and administer the program established under this section, and the Mississippi Development Authority shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

SOURCES: Laws, 2013, ch. 535, § 1, eff from and after July 1, 2013.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error. The last paragraph (4) was redesignated as (5).

MISSISSIPPI DEVELOPMENT AUTHORITY JOB TRAINING GRANT FUND

SEC.
57-1-451. Mississippi Development Authority Job Training Grant Fund created; use of funds.

§ 57-1-451. Mississippi Development Authority Job Training Grant Fund created; use of funds.

(1) There is created in the State Treasury a special fund to be known as the "Mississippi Development Authority Job Training Grant Fund" into which shall be deposited such money as provided in Section 27-65-75(21)(b). The money in the fund shall be used for the purpose of making job training grants to community and junior colleges, public universities and local workforce investment areas to pay a portion of the costs of providing training or retraining for employees of business enterprises that are eligible for the jobs tax credit authorized in Section 57-73-21. The fund shall be administered by the Mississippi Development Authority (MDA). Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on or investment earnings on the amounts in the fund shall be deposited to the credit of the fund. The MDA may use not more than one percent (1%) of interest earned or investment earnings, or both, on amounts in the fund for administration and management of the incentive program authorized under this section.

(2) Subject to the provisions of this section, job training grants may be made by the MDA to a community or junior college, public university or local workforce investment area to pay costs incurred in training or retraining employees for a business enterprise that is eligible for the jobs tax credit authorized in Section 57-73-21. A business enterprise that chooses to utilize a job training grant under this section shall not be eligible for the job tax credit authorized in Section 57-73-21. The election to utilize a job training grant shall be made by the business enterprise before the creation of any jobs. The grant payments may be made during a five-year period beginning with years two (2) through six (6) after the creation of the minimum number of jobs required by the MDA. The amount of the grants authorized by this section shall be seventy-five percent (75%) of the costs of training or retraining employees not to exceed:

(a) One Thousand Dollars ($1,000.00) per job in counties designated as Tier One areas under Section 57-73-21;

(b) One Thousand Five Hundred Dollars ($1,500.00) per job in counties designated as Tier Two areas under Section 57-73-21; and

(c) Two Thousand Dollars ($2,000.00) per job in counties designated as Tier Three areas under Section 57-73-21.

(3) The MDA shall cease making job training grant payments if it determines the required number of jobs are not being maintained by the business enterprise.

(4) The MDA shall require that the business enterprise shall enter into binding commitments requiring that:

(a) A minimum number of jobs be maintained that shall not be less than the number of jobs required to be eligible for the jobs tax credit authorized in Section 57-73-21; and

(b) That if the minimum number of jobs are not maintained, all or a portion of the grant funds paid under this section, as determined by the MDA, shall be repaid by the business enterprise.

(5) The MDA shall develop, implement and administer the job training grant program authorized under this section and shall promulgate rules and regulations necessary for the development, implementation and administration of the program.

(6) A business enterprise desiring to utilize job training grants under this section must submit requests for job training grants to the MDA. The MDA shall review the request and determine if the business enterprise is eligible and if a payment shall be made from the fund. The liability of the State of Mississippi to make the job training grants authorized under this section shall be limited to the balance contained in the fund.

SOURCES: Laws, 2013, ch. 447, § 1, eff from and after July 1, 2013.

Editor's Note — Laws of 2013, ch. 447, § 2 provides:

"SECTION 2. From and after July 1, 2013, the State Fiscal Officer shall transfer all money in the MMEIA Tax Incentive Fund created in Section 57-101-3 to the Mississippi Development Authority Job Training Grant Fund created in Section 1 of this act [Section 57-1-451]."

Laws of 2013, ch. 447, § 6 provides:

"SECTION 6. Section 3 of this act shall take effect and be in force from and after its passage and the remainder of this act shall take effect and be in force from and after July 1, 2013."

MISSISSIPPI AIR SERVICE DEVELOPMENT PROGRAM

SEC.	
57-1-471.	Mississippi Air Service Development Program Fund created; purpose; use of funds [Repealed effective July 1, 2018].

§ 57-1-471. Mississippi Air Service Development Program Fund created; purpose; use of funds [Repealed effective July 1, 2018].

(1) This section shall be known and may be cited as the "Mississippi Air Service Development Program Act."

(2) There is created in the State Treasury a fund designated as the "Mississippi Air Service Development Program Fund" referred to in this section as "fund."

(3)(a) The fund shall be used to provide grants to commercial service airports, as provided in this section, for one or more of the following air service development goals:

(i) Adding air service to a new destination;

(ii) Adding frequencies to current services;

(iii) Lowering fares/introducing new competitive service;

(iv) Upgauging aircraft; and

(v) Adding a new Federal Aviation Administration (FAA) Part 121 commercial air carrier.

(b) Eligible projects for grants shall include marketing and advertising of new service and routes and additional frequencies, as well as other risk abatement plans; however, use of grant funds to purchase airline passenger seats is prohibited.

(4)(a) The fund shall be administered by the Mississippi Development Authority which shall promulgate reasonable regulations consistent with the purposes of this section.

(b) The Mississippi Development Authority shall monitor and evaluate the Air Service Development Program and shall also report its evaluation of the program to the Governor, Lieutenant Governor and the Speaker of the House on an annual basis.

(5)(a) Airline grant recipients shall be limited to scheduled air carriers that hold a Federal Aviation Administration (FAA) Part 121 Certificate and that provide scheduled air service at Mississippi airports that maintain FAA Part 139 Certification. An airport grant recipient shall only utilize grant funds in accordance with FAA regulation.

(b) The amount of a grant shall be based on a formula of Ten Dollars ($10.00) per seat per day calculation, not to exceed an annual total of Five Hundred Thousand Dollars ($500,000.00) per grant per FAA Part 139 airport. In no instance will a combination of airline or airport grants exceed a combined total of Five Hundred Thousand Dollars ($500,000.00) per year per airport.

(c) Grants shall be disbursed by the Mississippi Development Authority within twelve (12) consecutive months as follows:

(i) Thirty-five percent (35%) at the end of the first three (3) months of service;

(ii) Twenty-five percent (25%) at the end of the second three (3) months of service;

(iii) Twenty-five percent (25%) at the end of the third three (3) months of service; and

(iv) Fifteen percent (15%) at the end of the fourth three (3) months of service.

(d)(i) Each grant shall be expended within twelve (12) consecutive months from the date the grant is awarded. Each grant shall require a forty percent (40%) match, which may be provided by private sources and/or public sources.

(ii) Of the forty percent (40%) match prescribed under this subsection, only one-half (½) or twenty percent (20%) of the grant may derive from in-kind sources.

(e) All expenditures of the fund by airport or airline grant recipients shall be utilized for the purposes prescribed under subsection (3) of this section.

(6) This section shall stand repealed from and after July 1, 2018.

SOURCES: Laws, 2014, ch. 460, § 1, eff from and after July 1, 2014.

CHAPTER 3

Agriculture and Industry Program

Sec.

57-3-1. Statement of legislative policy.
57-3-3. Legislative intent; requirement of certificate.
57-3-5. Definitions.
57-3-7. Construction of chapter.
57-3-9. Additional powers conferred on municipalities.
57-3-11. Requirement of bond issue election.
57-3-13. Notice of election.
57-3-15. Conduct of election; form of ballot.
57-3-17. Determination of results of election; time period for issuance of bonds.
57-3-19. Nature of bonds; payment of principal and interest; applicability of debt limitation; terms, conditions, execution, delivery, etc., of bonds; disposition of proceeds from sale of bonds.
57-3-21. Security for payment of bonds.
57-3-23. Requirements respecting lease of projects.
57-3-25. Refunding bonds.
57-3-27. Use of proceeds from sale of bonds.
57-3-29. Contribution by municipalities to projects; acceptance of donations by municipalities.
57-3-31. Investment in bonds.
57-3-33. Exemption from taxation of bonds, etc.; time limit for ad valorem tax exemption.

§ 57-3-1. Statement of legislative policy.

It is hereby declared that the state public welfare demands, and the state public policy requires:

(a) That a balanced economic development of this state is essential.

(b) That the present and prospective health, safety, morals, pursuit of happiness, right of gainful employment and the general welfare of the citizens demand as a public purpose, the development within Mississippi of commercial, industrial, agricultural and manufacturing enterprises, herein called "enterprises" by the several counties, supervisors districts and municipalities, all herein called "municipalities."

(c) That the means and measures herein authorized to promote said enterprises are as a matter of public policy, for the public purposes of the several counties, supervisors districts, municipalities, and of the State of Mississippi.

(d) That the present and prospective promotion of health, safety, morals, pursuit of happiness, right to gainful employment, and the general welfare of the state requires that herein and hereby authorized, and to that end the provisions hereof will help afford ready and attractive markets for farm and garden products, for the development of natural resources, and for the conversion of raw materials of farm, mine and forest into finished products for the general welfare of each of said municipalities, and of the entire people of the state.

(e) That the accomplishment of the things herein authorized to be done by the several municipalities will give to them local benefits peculiar to each, and will accomplish the purposes set forth in this section.

SOURCES: Codes, 1942, § 8936-51; Laws, 1960, ch. 147, § 1, eff from and after passage (approved May 11, 1960).

Cross References — Supplemental authority for participation in projects and issuance of bonds for solid or hazardous waste treatment projects, see §§ 17-17-101 et seq.

Time for making request for exemption from ad valorem taxation for projects financed with bonds issued under §§ 57-3-1 et seq., see § 27-31-101.

Authority of governing board to issue county or municipal bonds for pollution control, see § 49-17-121.

Mississippi Polymer Institute, see § 57-55-13.

JUDICIAL DECISIONS

1. In general.

Industrial enterprise agreements, together with a lease agreement according to which a county agreed to issue industrial revenue bonds to provide funds for a manufacturer to build a bottling plant within the county, and in which the manufacturer agreed to acquire the property, build and equip the plant, and convey it to the county, whereupon the county was to lease the project back to the manufacturer, were clearly executed to accomplish the public policy of §§ 57-3-1 et seq., the state's Agriculture and Industry legislation; moreover, the agreements were authorized by law, were in all respects valid and binding upon the parties, and the entire project, including land, buildings, improvements, machinery, equipment and the lease agreement, was exempt from ad valorem taxation for ten years, pursuant to §§ 57-3-5(2) and 57-3-33. Board of Supvrs. v. Hattiesburg Coca-Cola Bottling Co., 448 So. 2d 917 (Miss. 1984).

ATTORNEY GENERAL OPINIONS

Mississippi Legislature has specifically provided authority for county to borrow funds with regard to industrial development projects at Miss. Code Sections 57-3-1 et seq. Griffith, Apr. 7, 1993, A.G. Op. #93-0153.

The current corporate lessee of county-owned property first leased in 1963 under the old A. & I. statutes with exemption from ad valorem taxes for an unspecified period is entitled to an exemption for 10 years from the date the county approved assignment of the lease to that company. When the 10 years has already expired and the county erroneously omitted that leasehold from the tax assessment rolls for several years, the county may not assess back taxes. Approval by the county of sub-leases of the property is not an unlawful donation to a private party. Munn, March 9, 2007, A.G. Op. #07-00067, 2007 Miss. AG LEXIS 101.

RESEARCH REFERENCES

Am Jur. 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions §§ 189 et seq.

§ 57-3-3. Legislative intent; requirement of certificate.

It is the intent of the legislature by the passage of this chapter to authorize municipalities to acquire, own and lease projects for the purpose of promoting industry and trade by inducing manufacturing, and industrial enterprises to locate in this state, promoting the use of agricultural products and natural resources of this state, and promoting a sound and proper balance in this state between agriculture, commerce and industry. It is intended that each project be self-liquidating. This chapter shall be liberally construed in conformity with the said intent. The powers conferred upon the municipalities hereby shall be exercised only after such municipality has obtained a certificate of public convenience and necessity from the Mississippi Agricultural and Industrial Board in the manner and form as provided in Sections 57-1-19, 57-1-21, 57-1-23 and 57-1-27, with the exception that such board shall not be required to adjudicate either "that there are adequate property values and suitable financial conditions so that the total bonded indebtedness of the municipality, solely for the purposes authorized by this chapter, shall not exceed twenty per cent (20%) of the total assessed valuation of the property in the municipality," nor that the enterprise "will not become a burden upon the taxpayers of the municipality," the bonds authorized under this chapter being solely revenue bonds.

SOURCES: Codes, 1942, § 8936-52; Laws, 1960, ch. 147, § 2; Laws, 1964, ch. 217, § 1; Laws, 1966, ch. 235, § 1, eff from and after August 1, 1966.

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-3-5. Definitions.

Wherever used in this chapter, unless a different meaning clearly appears in the context, the following terms, whether used in the singular or plural, shall be given the following respective interpretations:

(1) "Municipality" means any county, supervisors district, incorporated city, town or village in the State of Mississippi;

(2) "Project" means land, buildings, improvements, fixtures, machinery, equipment and furnishings, and all real and personal properties deemed necessary in connection therewith, or any part or combination of parts of the foregoing, whether or not now in existence, which shall be suitable for use by any of the following or by any combination thereof:

(a) Any industrial enterprise for the manufacturing, processing or assembling of any products of agriculture, mining or industry;

(b) Any industrial enterprise for storing or warehousing products of agriculture, mining or industry;

(c) Any industrial or commercial enterprise for distributing any products of agriculture, mining or industry;

(d) Any enterprise for the purpose of research in connection with:

(i) Any of the foregoing;

(ii) The development of new products or processes; or

(iii) The improvement of existing products or known processes;

(e) Any industrial enterprise for national, regional or divisional offices or facilities in connection with the management, supervision or service of its manufacturing, processing, assembling, storing, warehousing, distribution or research operations, wherever located; but does not include facilities designed for the sale or distribution to the public of electricity, gas, water, telephone or other services commonly classified as public utilities;

(f) Any enterprise allowed under Section 144(a) of the Internal Revenue Code of 1986;

(g) Any conference center, or any final destination or resort hotel having a minimum of one hundred fifty (150) rooms, or any combination of the foregoing; or

(h) Any theme park or movie industry production studio, or any combination thereof, which would employ a minimum of two hundred (200) net full-time employees.

(3) "Governing body" means the board or body in which the legislative powers of the municipality are vested, and as to supervisors districts such board or body shall be the county board of supervisors, acting with the consent of the member from the district affected;

(4) "Mortgage" means a mortgage, indenture of trust, deed of trust or any other instrument securing bonds.

SOURCES: Codes, 1942, § 8936-53; Laws, 1960, ch. 147, § 3; Laws, 1963, 1st Ex. Sess. ch. 27, § 1; Laws, 1976, ch. 419, § 1; Laws, 1980, ch. 433, § 2; Laws, 1986, ch. 390; Laws, 1990 Ex Sess, ch. 71, § 3, eff from and after passage (approved June 30, 1990).

Federal Aspects — Section 144(a) of Internal Revenue Code, see 26 USCS § 144(a).

JUDICIAL DECISIONS

1. In general.

Industrial enterprise agreements, together with a lease agreement according to which a county agreed to issue industrial revenue bonds to provide funds for a manufacturer to build a bottling plant within the county, and in which the manufacturer agreed to acquire the property, build and equip the plant, and convey it to the county, whereupon the county was to lease the project back to the manufacturer, were clearly executed to accomplish the public policy of §§ 57-3-1 et seq., the state's Agriculture and Industry legislation; moreover, the agreements were authorized by law, were in all respects valid and binding upon the parties, and the entire project, including land, buildings, improvements, machinery, equipment and the lease agreement, was exempt from ad valorem taxation for ten years, pursuant to §§ 57-3-5(2) and 57-3-33. Board of Supvrs. v. Hattiesburg Coca-Cola Bottling Co., 448 So. 2d 917 (Miss. 1984).

§ 57-3-7. Construction of chapter.

Neither this chapter nor anything herein contained shall be construed as a restriction or limitation upon any powers which a municipality might otherwise have under laws of this state nor to limit or change the provisions of Sections 57-1-1 through 57-1-51, but shall be construed as cumulative; nor shall the bonds issued hereunder be affected by or counted in connection with any statutory limitation upon the amount of bonds which otherwise may be issued by such municipality. The bonds herein authorized may be issued in addition to any bonds issued under Sections 57-1-1 through 57-1-51, and without regard to the amount of any other bonds issued or outstanding.

SOURCES: Codes, 1942, § 8936-67; Laws, 1960, ch. 147, § 17, eff from and after passage (approved May 11, 1960).

§ 57-3-9. Additional powers conferred on municipalities.

In addition to any other powers which it may now have, each municipality shall have the following powers: (a) to acquire, whether by construction, purchase, gift or lease, one or more projects, which shall be located within the State of Mississippi and may be located within or without the municipality, or partially within or partially without the municipality, but which shall not be located more than fifteen (15) miles outside of the boundary limits of the municipality; provided, however, that when any such project shall be located in whole or in part outside the municipal or incorporated boundaries of any city, town or village of this state the powers granted under this chapter shall not be exercised by a city, town or village until a resolution approving such project has been duly adopted and spread upon the official minutes of the board of supervisors of the county in which such city, town or village is located. The municipality is authorized to negotiate a contract for the acquisition, construction and erection of a project or any portion of a project hereunder (i) where the municipality finds that, because of the secret nature of such project or any portion thereof, or because such project or any portion thereof will be used for the manufacture of products to be utilized by the United States of America in the national defense, public bidding thereon, pursuant to advertisement therefor, is not in the public interest; and provided, further, such finding is approved, through issuance of appropriate certificate or resolution of approval, by the Department of Economic and Community Development, or (ii) where the municipality finds that, because of the particular nature of said project or any portion thereof, it would be in the best public interest of the municipality so to negotiate, and such finding is approved, through issuance of appropriate certificate or resolution of approval, by the Department of Economic and Community Development; (b) to lease or sell to others any or all of its projects for such rentals and upon such terms and conditions as the governing body may deem advisable and as shall not be in conflict with the provisions of this chapter; and (c) to issue revenue bonds for the purposes of defraying the cost of acquiring any project, and to secure the payment of such bonds, as hereinafter provided.

No municipality shall have the power to operate any project as a business or in any manner under this chapter except as a lessor thereof.

The municipality issuing bonds to acquire a project under this chapter shall maintain a record of the location of projects for which the proceeds of such bonds are expended and the amount expended at each location. Such record shall indicate the purpose, amount, date and recipient of each expenditure made out of the proceeds of such bonds. If a trustee has been named pursuant to Section 57-3-21, the trustee shall make timely reports to the clerk of the municipality setting forth the details required in the preceding sentence with respect to the expenditure of bond proceeds. Such records shall be maintained as public records in the office of the clerk of the municipality and shall be available for inspection and duplication during the regular office hours of the municipality.

SOURCES: Codes, 1942, § 8936-54; Laws, 1960, ch. 147, § 4; Laws, 1963, 1st Ex. Sess. ch. 27, § 2; Laws, 1964, ch. 217, § 2; Laws, 1964, 1st Ex. Sess. ch. 13; Laws, 1966, ch. 235, § 2; Laws, 1976, ch. 419, § 2; Laws, 1979, ch. 364; Laws, 1980, ch. 411; Laws, 1996, ch. 403, § 1, eff from and after July 1, 1996.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Jurisdiction and powers of county board of supervisors generally, see § 19-3-41.

Powers of municipality generally, see § 21-17-1.

Requirements respecting lease of projects, see § 57-3-23.

Refunding bonds, see § 57-3-25.

Use of proceeds from sale of bonds, see § 57-3-27.

What is included in the cost of acquiring project, see § 57-3-27.

RESEARCH REFERENCES

ALR. Power of municipal corporation to exchange its real property. 60 A.L.R.2d 220.

Power of municipality to sell, lease, or mortgage public utility plant or interest therein. 61 A.L.R.2d 595.

Am Jur. 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions §§ 189 et seq.

§ 57-3-11. Requirement of bond issue election.

Before issuing any bonds hereunder the governing body, as hereinbefore defined, of any municipality, as hereinbefore defined, shall adopt a resolution declaring its intention so to do stating the amount of bonds proposed to be issued, the purpose for which the bonds are to be issued, and the date upon which the governing body proposes to direct the issuance of such bonds. Such resolution shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in the county in which such municipality is located. The first publication of such resolution shall be made not less than twenty-one (21) days prior to the date fixed in such resolution for the issuance of the bonds and the last publication shall be made not more than seven (7) days prior to such date. If no newspaper be published in such county, then such notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in such county, and, in addition, by posting a copy of such resolution for at least twenty-one (21) days next preceding the date fixed therein at three (3) public places in such county. If twenty per centum (20%) of the qualified electors of the municipality shall file a written protest against the issuance of such bonds on or before the date specified in such resolution, then an election on the question of the issuance of such bonds shall be called and held as herein provided. If no such protest be filed, then such bonds may be issued without an election on the question of the issuance thereof, at any time within a period of two (2) years after the date specified in the above-mentioned resolution. However, the governing body of such municipality, in its discretion, may nevertheless call an election on such question, in which event it shall not be necessary to publish the resolution declaring its intention to issue bonds as herein provided.

SOURCES: Codes, 1942, § 8936-55; Laws, 1960, ch. 147, § 5, eff from and after passage (approved May 11, 1960).

Cross References — Notice and conduct of bond issue election, see §§ 57-3-13, 57-3-15.

Refunding bonds, see § 57-3-25.

JUDICIAL DECISIONS

1. In general.

The choice given by this section [Code 1942, § 8936-55] between calling a bond election in the first instance, and publishing notice of intention to issue bonds does not imply a similar choice in the case of bonds issued under Code 1942, § 7129-51. In re $500,000 Pub. Imp. Gen. Obligation Bonds, 247 Miss. 448, 152 So. 2d 698 (1963).

§ 57-3-13. Notice of election.

Where an election is to be called as provided in Section 57-3-11, notice of such election shall be signed by the clerk of the governing body of any municipality, and shall be published once a week for at least three (3) consecutive weeks, in at least one (1) newspaper published in such county. The first publication of such notice shall be made not less than twenty-one (21) days prior to the date fixed for such election and the last publication shall be made not more than seven (7) days prior to such date. If no newspaper is published in such county, then such notice shall be given by publishing the same for the required time in some newspaper having a general circulation in such county, and, in addition, by posting a copy of such notice for at least twenty-one (21) days next preceding such election at three (3) public places in such county.

SOURCES: Codes, 1942, § 8936-56; Laws, 1960, ch. 147, § 6, eff from and after passage (approved May 11, 1960).

§ 57-3-15. Conduct of election; form of ballot.

The election provided for in Section 57-3-11 shall be held, as far as is practicable, in the same manner as other elections are held in municipalities. At such election, all qualified electors of such municipality may vote, and the ballots used at such election shall have printed thereon a brief statement of the amount and purpose of the proposed bond issue and the words "FOR THE BOND ISSUE" and "AGAINST THE BOND ISSUE," and the voter shall vote by placing a cross (x) or check mark (√) opposite his choice on the proposition.

SOURCES: Codes, 1942, § 8936-57; Laws, 1960, ch. 147, § 7, eff from and after passage (approved May 11, 1960).

§ 57-3-17. Determination of results of election; time period for issuance of bonds.

When the results of the election on the question of the issuance of such bonds as hereinabove provided for shall have been canvassed by the election commissioners of such municipality and certified by them to the governing body of such municipality, it shall be the duty of such governing body to determine and adjudicate whether or not a majority of the qualified electors who voted thereon in such election voted in favor of the issuance of such bonds, and unless a majority of the qualified electors who voted thereon in such election shall have voted in favor of the issuance of such bonds, then such bonds shall not be issued. Should a majority of the qualified electors who vote thereon in such election vote in favor of the issuance of such bonds, then the governing body of the municipality may issue such bonds, either in whole or in part, within two (2) years from the date of such election, or within two (2) years after the final favorable termination of any litigation affecting the issuance of such bonds, as such governing body shall deem best.

SOURCES: Codes, 1942, § 8936-58; Laws, 1960, ch. 147, § 8, eff from and after passage (approved May 11, 1960).

§ 57-3-19. Nature of bonds; payment of principal and interest; applicability of debt limitation; terms, conditions, execution, delivery, etc., of bonds; disposition of proceeds from sale of bonds.

(1) All bonds issued by a municipality under authority of this chapter shall be limited obligations of the municipality, the principal of and interest on which shall be payable solely out of the revenue derived from the leasing of the

project to finance which bonds are issued. Bonds and interest coupons issued under authority of this chapter shall never constitute an indebtedness of the municipality within the meaning of any state constitutional provision or statutory limitation, and shall never constitute nor give rise to a pecuniary liability of the municipality or a charge against its general credit or taxing powers, and such fact shall be plainly stated in the face of each such bond. Such bonds may be executed and delivered at any time and from time to time, may be in such form and denominations and may bear interest irrespective of any interest rate limitation; may be of such tenor, may be in registered or bearer form either as to principal or interest or both, may be payable in such installments and at such time or times not exceeding thirty (30) years from their date, may be payable at such place or places and evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided in the proceedings of the governing body whereunder the bonds shall be authorized to be issued. Any bonds issued under the authority of this chapter may be sold at public or private sale from time to time in such manner and at such price as may be determined by the governing body to be most advantageous, and the municipality may pay all expenses, premiums and commissions which the governing body may deem necessary or advantageous in connection with the authorization, sale and issuance thereof. All bonds issued under the authority of this chapter and all interest coupons applicable thereto shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source.

(2) Any funds received from the sale of bonds issued under this chapter, including accrued interest thereon, which are not required for immediate disbursement for the purpose for which issued may be invested at the direction of the enterprise in any one or more of the following:

(a) Bonds or other obligations of the United States;

(b) Bonds or other obligations, the payment of the principal and interest of which is unconditionally guaranteed by the United States;

(c) Direct obligations issued by the United States of America or obligations guaranteed in full as to principal and interest by the United States of America, maturing or subject to a repurchase agreement with a qualified state depository bank maturing on or before the date when such funds will be required for disbursement;

(d) Certificates of deposit issued by qualified depositories of the State of Mississippi as approved by the State Depository Commission;

(e) Prime commercial paper;

(f) Bankers' acceptances drawn on and accepted by commercial banks.

(g) Any other investment authorized by any bank, savings bank, savings and loan association, insurance company or similar institutional investor, or combination thereof, which, at the time of authorization, is the owner of all of the bonds.

SOURCES: Codes, 1942, § 8936-59; Laws, 1960, ch. 147, § 9; Laws, 1964, ch. 217, § 3; Laws, 1966, ch. 235, § 3; Laws, 1968, ch. 558, § 1; Laws, 1975, ch. 451; Laws, 1977, ch. 415; Laws, 1978, ch. 491, § 1; Laws, 1979, ch. 456, § 2; Laws,

1980, ch. 433, § 1; Laws, 1981, ch. 459, § 1; Laws, 1982, ch. 453, § 1; Laws, 1983, ch. 541, § 31; Laws, 1984, ch. 506, § 10; Laws, 1993, ch. 397, § 2, eff from and after passage (approved March 16, 1993).

Editor's Note — Section 27-105-1 provides that wherever the term "State Depository Commission" appears in any law, the same shall mean the State Treasurer.

Cross References — Law of negotiable instruments under Uniform Commercial Code, see §§ 75-3-101 et seq.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 1 et seq.

§ 57-3-21. Security for payment of bonds.

The principal of, redemption premium, if any, and interest on any bonds issued under the authority of this chapter shall be secured by a pledge of the revenues derived from the lease or sale of the project, may be secured by a mortgage covering all or any part of the project or any additional property granted as security for the bonds, may be secured by a pledge of the lease of such project and may be secured by such additional security as the governing body shall require. The proceedings under which such bonds are authorized to be issued or any such mortgage may contain any agreements and provisions customarily contained in instruments securing bonds, including, without limitation, the generality of the foregoing provisions respecting the fixing and collection of rents for any projects, covered by such proceedings or mortgage, the terms to be incorporated in the lease of such project, the maintenance and insurance of such project, to include the establishment of an escrow or reserve fund for deposits of advance insurance premiums, the creation and maintenance of special funds from revenues from such project, and rights and remedies available in event of default to the bondholders or to the trustee under a mortgage, all as the governing body shall deem advisable and as shall not be in conflict with the provisions of this chapter. However, in making such agreements or provisions, a municipality shall not have the power to obligate itself except with respect to the project and application of revenues therefrom and shall not have the power to incur a pecuniary liability or a charge upon its general credit or against its taxing powers. The proceedings authorizing any bonds hereunder and any mortgage securing such bonds may provide that, in the event of default in payment of principal of, or the interest on, such bonds, or in the performance of any agreement contained in such proceedings or mortgage, such payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rents and to apply the revenues from the project in accordance with such proceedings or the provisions of such mortgage. Any such mortgage may provide also that, in the event of default in such payment or the violation of any agreement contained therein, it may be foreclosed either by sale at public outcry or by proceedings in equity, and may provide that any trustee under such mortgage or the holder of any of the bonds secured thereby may become the purchaser at any foreclosure sale if the highest bidder therefor. No breach of any such agreement shall impose any pecuniary liability upon a municipality or any charge upon its general credit or against its taxing powers. The trustee or any trustees under any mortgage or any depository specified by such mortgage may be such persons or corporations as the governing body shall designate, including nonresidents of Mississippi and banks or trust companies incorporated under the laws of the United States or the laws of other states of the United States. When any municipal property acquired under the authority of this chapter becomes vacant, through unforeseen circumstances, such as default by the lessee, the municipality may exercise the authority contained in Sections 19-7-7 and 21-37-45, Mississippi Code of 1972, to have this property insured and the cost thereof paid out of the municipal treasury until such a time as the property is again leased.

SOURCES: Codes, 1942, § 8936-60; Laws, 1960, ch. 147, § 10; Laws, 1964, ch. 217, § 4; Laws, 1966, ch. 235, § 4; Laws, 1976, ch. 419, § 3, eff from and after passage (approved May 5, 1976).

Cross References — Insurance on county property, see § 19-7-7.
Insurance on municipal property, see § 21-37-45.
Duty of trustee to make reports, see § 57-3-9.
Refunding bonds, see § 57-3-25.
Use of proceeds from sale of bonds, see § 57-3-27.

§ 57-3-23. Requirements respecting lease of projects.

Prior to the leasing of any project, the governing body must determine and find the following: the amount necessary in each year to pay the principal of and the interest on the bonds proposed to be issued to finance such project; the amount necessary to be paid each year into any reserve funds, which amounts may include deposits in escrow or reserve amounts as advance sums for the payment of insurance, which the governing body may deem it advisable to establish in connection with the retirement of the proposed bonds and the maintenance of the project; and, unless the terms under which the project is to be leased provide that the lessee shall maintain the project and carry all proper insurance with respect thereto, the estimated cost of maintaining the project in good repair and keeping it properly insured. The determinations and findings of the governing body required to be made in the preceding sentence shall be set forth in the proceedings under which the proposed bonds are to be issued; and prior to the issuance of such bonds, the municipality shall lease the project to a lessee under an agreement conditioned upon completion of the project and providing for payment to the municipality of such rentals as, upon the basis of such determinations and findings, will be sufficient (a) to pay the principal of and interest on the bonds issued to finance the project, (b) to build up and maintain any reserve deemed by the governing body to be advisable in connection therewith, and (c) unless the agreement of lease obligated the lessee to pay for the maintenance and insurance of the project, to pay the cost of maintaining the project in good repair and keeping it properly insured. Such lease shall be made upon such other terms and conditions and for the time which may be determined by the municipality and may contain provisions authorizing the purchase of the entire project or any portion thereof by the industry or its assignee after all bonds (if any) issued thereunder have been paid in full, for such consideration and upon such terms and conditions as the municipality may determine.

SOURCES: Codes, 1942, § 8936-61; Laws, 1960, ch. 147, § 11; Laws, 1964, ch. 217, § 5; Laws, 1966, ch. 235, § 5, eff from and after August 1, 1966.

ATTORNEY GENERAL OPINIONS

Language in a lease agreement reading "such lease shall be made upon such other terms and conditions and for the time which may be determined by the municipality" grants sufficient authority for municipal governing authorities to enter into a long term lease with a private company, which lease may extend beyond the term of the current members of that body. Farmer, Apr. 23, 2004, A.G. Op. 04-0165.

RESEARCH REFERENCES

ALR. Power of municipal corporation to exchange its real property. 60 A.L.R.2d 220.

Power of municipality to sell, lease, or mortgage public utility plant. 61 A.L.R.2d 595.

§ 57-3-25. Refunding bonds.

Any bonds issued hereunder and at any time outstanding may at any time and from time to time be refunded by a municipality by the issuance of its refunding bonds in such amount as the governing body may deem necessary but not exceeding an amount sufficient to refund the principal of the bonds so to be refunded, together with any unpaid interest thereon and any premiums and commissions necessary to be paid in connection therewith. Any such refunding may be effected whether the bonds to be refunded shall have been matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds thereof for the payment of the bonds to be refunded thereby, or by exchange of the refunding bonds for the bonds to be refunded thereby, provided that the holders of any bonds so to be refunded shall not be compelled without their consent to surrender their bonds for payment or exchange prior to the date on which they are payable or, if they are called for redemption, prior to the date on which they are by their terms subject to redemption. Any refunding bonds issued under the authority of this section shall be payable solely from the revenues out of which the bonds to be refunded hereby were payable, and shall be subject to the provisions contained in Section 57-3-11, and may be secured in accordance with the provisions of Section 57-3-21.

SOURCES: Codes, 1942, § 8936-62; Laws, 1960, ch. 147, § 12, eff from and after passage (approved May 11, 1960).

§ 57-3-27. Use of proceeds from sale of bonds.

The proceeds from the sale of any bonds issued under authority of this chapter shall be applied only for the purpose for which the bonds were issued. However, any accrued interest and premium received in any such sale shall be applied to the payment of the principal of or the interest on the bonds sold; and, if for any reason, any portion of such proceeds shall not be needed for the purpose for which the bonds were issued, then such unneeded portion of said proceeds shall be applied to the payment of the principal of or the interest on said bonds. The cost of acquiring any project shall be deemed to include the following: the actual cost of the construction of any part of a project which may be constructed, including equipment, machinery, facilities, attorney's, architect's and engineer's fees; abstracts, cost of preparing and recording warranty deeds; the purchase price of any part of a project that may be acquired by purchase; the deposit into a reserve or escrow fund advance payments for insurance, in the event that the prospective lessee shall be in default of any payments and the municipality has to take over the operation of said project; all expenses in connection with the authorization, sale and issuance of the bonds to finance such acquisition; and the interest on such bonds for a reasonable time prior to construction, during construction, and for not exceeding six (6) months after completion of construction. Proceeds of said bonds shall be placed in the municipal treasury or with the trustee named in the mortgage or indentured trust as provided in Section 57-3-21 as a special fund and shall be used for no other purpose than the purpose set forth in the original resolution, and any officer diverting or assisting to divert any such fund to any other purpose than the purpose originally set forth in said resolution of the governing authority of said municipality shall be guilty of a misdemeanor, shall be punished accordingly, and shall also be liable both personally and on his official bond for such diversion, together with the costs of collection and reasonable attorney's fees. The Mississippi Agricultural and Industrial Board is authorized to employ necessary competent attorneys to proceed by action for injunction or mandamus to require compliance with said original resolution by any officer or municipal board.

SOURCES: Codes, 1942, § 8936-63; Laws, 1960, ch. 147, § 13; Laws, 1964, ch. 217, § 6; Laws, 1966, ch. 235, § 6; Laws, 1978, ch. 491, § 2, eff from and after July 1, 1978.

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Assisting local school districts in establishing and maintaining local school trust land management systems, see § 29-3-2.

Income from bonds exempt from taxation, except the tax levied by § 27-65-21, see § 57-3-33.

RESEARCH REFERENCES

ALR. Payment of attorneys' services in defending action brought against officials individually as within power or obligation of public body. 47 A.L.R.5th 553.

§ 57-3-29. Contribution by municipalities to projects; acceptance of donations by municipalities.

No municipality shall have the power to pay out of its general funds or otherwise contribute any part of the costs of acquiring a project, but, the entire cost of acquiring any project must be paid out of the proceeds from the sale of bonds issued under the authority of this chapter. This provision shall not be construed to prevent a municipality from accepting donation of property to be used as a part of any such project or money to be used for defraying any part of the cost of any such project.

SOURCES: Codes, 1942, § 8936-64; Laws, 1960, ch. 147, § 14, eff from and after passage (approved May 11, 1960).

§ 57-3-31. Investment in bonds.

Bonds issued under the provisions of this chapter shall be legal investments for savings banks and insurance companies organized under the laws of this state.

SOURCES: Codes, 1942, § 8936-65; Laws, 1960, ch. 147, § 15, eff from and after passage (approved May 11, 1960).

Cross References — Investment of funds by domestic insurance companies, see § 83-19-51.

§ 57-3-33. Exemption from taxation of bonds, etc.; time limit for ad valorem tax exemption.

The bonds authorized by this chapter, the income therefrom, all mortgages or deeds of trust executed as security therefor, all lease or purchase agreements made pursuant to the provisions hereof, and all purchases required to establish the enterprise and financed by bond proceeds shall be exempt from all taxation in the State of Mississippi except the contractors' tax imposed by Section 27-65-21 and the tax levied by Section 27-65-24(1)(b) and all projects and the revenue derived from any lease thereof shall be exempt from all taxation in the State of Mississippi, except the tax levied by Sections 27-65-21 and 27-65-24(1)(b). From and after July 1, 1989, there shall be no new exemption under this section or under Chapter 10, Title 57, Mississippi Code of 1972, from ad valorem taxes levied for school district purposes. The time of any ad valorem tax exemption provided for hereunder shall not exceed a total of ten (10) years, which shall run from the date of completion of the project. In no event shall the term of the ad valorem tax exemption provided for hereunder be limited, terminated or otherwise affected by payment in full of the bonds issued under this chapter or by the change from a leasehold to a fee title in the enterprise financed with bonds issued under this chapter.

SOURCES: Codes, 1942, § 8936-66; Laws, 1960, ch. 147, § 16; Laws, 1964, ch. 217, § 7; Laws, 1966, ch. 235, § 7; Laws, 1989, ch. 524, § 22; Laws, 1990 Ex Sess, ch. 71, § 4; Laws, 1992, ch. 518, § 4; Laws, 1995, ch. 355, § 2; Laws, 2010, ch. 449, § 6, eff from and after July 1, 2010.

Editor's Note — Laws of 1989, ch. 524, § 36, provides:

"SECTION 36. The repeal or amendment of this act shall not reduce the terms of any tax reduction, special tax incentive or financial assistance agreed upon pursuant to official action by the Department of Economic Development, the State Tax Commission or other appropriate agency of the state or political subdivision thereof prior to the effective date of such repeal or amendment."

Cross References — Time for making request for exemption from ad valorem taxation for projects financed with bonds issued under §§ 57-3-1 et seq., see § 27-31-101.

Industrial exemptions from sales tax, see § 27-65-101.

JUDICIAL DECISIONS

1. In general.

A corporation that leased equipment and a facility, which was owned by the county, and which had been constructed with funds obtained from public industrial revenue bonds pursuant to the Balance Agriculture With Industry Act, was statutorily exempt from ad valorem taxation on its leasehold interest on real and personal property for a period of ten years from the date of completion of the project. Morco Indus., Inc. v. City of Long Beach, 530 So. 2d 141 (Miss. 1988).

Industrial enterprise agreements, together with a lease agreement according to which a county agreed to issue industrial revenue bonds to provide funds for a manufacturer to build a bottling plant within the county, and in which the manufacturer agreed to acquire the property, build and equip the plant, and convey it to the county, whereupon the county was to lease the project back to the manufacturer, were clearly executed to accomplish the public policy of §§ 57-3-1 et seq., the state's Agriculture and Industry legislation; moreover, the agreements were authorized by law, were in all respects valid and binding upon the parties, and the entire project, including land, buildings, improvements, machinery, equipment and the lease agreement, was exempt from ad valorem taxation for ten years, pursuant to §§ 57-3-5(2) and 57-3-33. Board of Supvrs. v. Hattiesburg Coca-Cola Bottling Co., 448 So. 2d 917 (Miss. 1984).

ATTORNEY GENERAL OPINIONS

In accordance with Section 57-3-33, projects and property financed under the provisions of said chapter are exempt from all taxation except taxes levied pursuant to Section 27-65-21, Sections 37-57-105 and 37-59-23, and taxes levied pursuant to Section 27-39-329 when said tax is levied expressly "for school district purposes"; a tax levied under Section 37-29-141 for the support of junior (community) college districts is not for "school district purposes." Beech, Mar. 17, 2006, A.G. Op. 06-0009.

The current corporate lessee of county-owned property first leased in 1963 under the old A. & I. statutes with exemption from ad valorem taxes for an unspecified period is entitled to an exemption for 10 years from the date the county approved assignment of the lease to that company.

When the 10 years has already expired and the county erroneously omitted that leasehold from the tax assessment rolls for several years, the county may not assess back taxes. Approval by the county of sub-leases of the property is not an unlawful donation to a private party. Munn, March 9, 2007, A.G. Op. #07-00067, 2007 Miss. AG LEXIS 101.

CHAPTER 4

Industrial Development Fund

SEC.
57-4-1. Establishment.
57-4-3. State contributions made as loans deemed full faith and credit obligations of political subdivisions.
57-4-5. Content and form of copy of political subdivision's resolution, order or excerpt of minutes.
57-4-7. Contributions made as loans to be evidenced by negotiable promissory notes.
57-4-9. Interest rate on indebtedness for loan.
57-4-11. Length of indebtedness incurred as loan; repayment in equal annual installments; applicability of debt limitation.
57-4-13. Levy of tax for repayment of indebtedness; proceedings upon default in repayment of indebtedness.
57-4-15. Proceeds of state contributions to be used only for matching federal funds.
57-4-17. Records.
57-4-19. Deposit of repayments.
57-4-21. Payment of expenditures for state contributions to be upon warrants drawn on fund.
57-4-23. Purposes for which funds may be used.

§ 57-4-1. Establishment.

There is hereby established in the State Treasury a revolving fund to be designated as the "industrial development fund." Such funds as may be deposited in the fund shall be used, either as loans or grants, for the purpose of making the state's contribution for matching federal grants available under the provisions of Section 304, Public Works and Economic Development Act of 1965, as amended, for political subdivisions of the state as hereinafter set forth.

SOURCES: Laws, 1977, ch. 492, § 1(1); Laws, 1984, ch. 324, § 1, eff from and after passage (approved April 10, 1984).

Cross References — Mississippi Small Business Financing Act, see §§ 57-10-201 et seq.

Water Resources Research Institute, see § 57-55-7.

Small business development center, see § 57-55-11.

Federal Aspects — Section 304 of the Public Works and Economic Development Act of 1965, referred to in this section, is codified as 42 USCS § 3153.

§ 57-4-3. State contributions made as loans deemed full faith and credit obligations of political subdivisions.

Any state contribution made as a loan on behalf of a political subdivision under the provisions of this chapter is hereby made a full faith and credit obligation of such political subdivision to the State of Mississippi, and binding on the governing body obtaining such state contribution and their successors in office until repaid in full as to principal and interest thereon, without regard to existing statutory limitations.

SOURCES: Laws, 1977, ch. 492, § 1(2), eff from and after passage (approved April 15, 1977).

§ 57-4-5. Content and form of copy of political subdivision's resolution, order or excerpt of minutes.

The agricultural and industrial board shall require a certified copy of a resolution, order or other appropriate excerpt of the official minutes of the governing authority, to be of such general form and content as the board may deem appropriate, together with application forms for such state contribution.

SOURCES: Laws, 1977, ch. 492, § 1(3), eff from and after passage (approved April 15, 1977).

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Cross References — Tax credits allowed by Economic Development Reform Act of 1989, see § 57-73-21.

§ 57-4-7. Contributions made as loans to be evidenced by negotiable promissory notes.

All contributions made as loans by the state under the provisions of this chapter shall be evidenced by negotiable promissory notes of the political subdivision to be in such standard form and content of acceptable banking standards, shall mature at such time, to bear interest as hereinafter provided, and shall bear the signature of the president or presiding officer and the clerk or secretary of the political subdivision and the official seal.

SOURCES: Laws, 1977, ch. 492, § 1(4), eff from and after passage (approved April 15, 1977).

§ 57-4-9. Interest rate on indebtedness for loan.

The indebtedness for a loan incurred hereunder shall bear interest at the rate of five percent (5%) per annum.

SOURCES: Laws, 1977, ch. 492, § 1(5), eff from and after passage (approved April 15, 1977).

§ 57-4-11. Length of indebtedness incurred as loan; repayment in equal annual installments; applicability of debt limitation.

Indebtedness incurred as a loan under the provisions of this chapter shall not exceed five (5) years from the date of the contribution by the state, and any such indebtedness shall be repaid in equal annual installments. Any indebtedness incurred as a loan under the provisions of this chapter shall not be included in computing the debt limit under any other statute.

SOURCES: Laws, 1977, ch. 492, § 1(6), eff from and after passage (approved April 15, 1977).

§ 57-4-13. Levy of tax for repayment of indebtedness; proceedings upon default in repayment of indebtedness.

The governing authority of any county or municipality incurring indebtedness under this chapter is hereby authorized to annually levy a millage on all of the taxable property of such political subdivision at any time after the indebtedness is incurred in an amount sufficient to repay any such indebtedness, and it shall not be charged against the existing authority as to limitations of millage for local governmental purposes. In the event that such indebtedness has not been repaid in accordance with the contract, the agricultural and industrial board shall determine that there is a default in the terms of the promissory note, including interest due thereon, shall enter an order to that effect upon its official minutes, and shall send a certified copy of said order by certified mail to the governing authority of such political subdivision and to the state tax commission. If the default is not satisfied within ninety (90) days after such certified notice, the state tax commission shall deduct from any funds held by the state for disbursement to said political subdivision such amount as is in default, and shall remit it to the agricultural and industrial board for deposit into the industrial development fund.

SOURCES: Laws, 1977, ch. 492, § 1(7), eff from and after passage (approved April 15, 1977).

Editor's Note — Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-4-15. Proceeds of state contributions to be used only for matching federal funds.

The proceeds of all state contributions as a loan or grant shall be used only for matching federal funds as provided under the provisions of this chapter. The federal funds may also be matched by the provision of in-kind services, equipment, personnel, supplies or other in-kind matching.

SOURCES: Laws, 1977, ch. 492, § 1(8), eff from and after passage (approved April 15, 1977).

§ 57-4-17. Records.

The agricultural and industrial board shall require governing authorities to keep such records as are necessary to assure that the funds are spent in accordance with this chapter.

SOURCES: Laws, 1977, ch. 492, § 1(9), eff from and after passage (approved April 15, 1977).

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-4-19. Deposit of repayments.

All funds received by the board of economic development in repayment of state contributions or unused funds from any project approved by the board shall be promptly deposited into the industrial development fund.

SOURCES: Laws, 1977, ch. 492, § 1(10); Laws, 1984, ch. 324, § 2, eff from and after passage (approved April 10, 1984).

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-4-21. Payment of expenditures for state contributions to be upon warrants drawn on fund.

All expenditures for approved state contributions shall be paid upon warrants drawn on the industrial development fund as created pursuant to this chapter, and the state auditor of public accounts shall issue warrants upon requisitions signed by the director of the agricultural and industrial board, after approval of such state contributions by the board.

SOURCES: Laws, 1977, ch. 492, § 2, eff from and after passage (approved April 15, 1977).

Editor's Note — Section 7-7-2 provided that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section § 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-4-23. Purposes for which funds may be used.

The state participation shall be used only for the purposes of Title I, Public Works and Economic Development Act of 1965, as amended, and expenditures from the industrial development fund shall be used primarily for the development of industrial parks, exclusive of land purchases. If the board determines that such funds will serve a more useful purpose when expended for other purposes approved under said Title I, it shall have the authority to approve applications for such additional purposes and make contributions in accordance with the provisions of this chapter. Prior to the approval of any application for a purpose other than development of an industrial park, the board shall spread upon its minutes the reasons for its determination that the additional purpose will be a better use of the available funds.

No funds shall be expended from the fund for any projects other than those approved by the board, and only after such approval has been spread on the minutes of the board. In the event the board receives applications which would exceed the funds available, it shall approve those projects which appear to have the greatest potential for immediate benefit to the areas most in need of an improved economy.

No applicant shall receive a state contribution in excess of ten percent (10%) of the amount appropriated to the industrial development fund by the 1977 regular session of the Mississippi Legislature.

SOURCES: Laws, 1977, ch. 492, § 3, eff from and after passage (approved April 15, 1977).

Cross References — Industrial parks and districts generally, see Chapter 5, Title 57.

Federal Aspects — Title I of Public Works and Economic Development Act of 1965, referred to in this section, is codified as 42 USCS §§ 3131 et seq.

CHAPTER 5

Industrial Parks and Districts

Sec.

57-5-1. Declaration of public policy.
57-5-3. Encouragement of establishment of parks.
57-5-5. Establishment of minimum requirements for industrial park or district.
57-5-7. Assistance to municipality in studying feasibility of establishing industrial park; conduct of joint study by state and municipality.
57-5-9. Determination of necessity for establishment of industrial park or district.
57-5-11. Application for certificate by municipality; hearings on application.
57-5-13. Factors to be determined in ruling upon application for certificate; authority conferred by certificate; disposition of proceeds from sale, lease, etc. of park.
57-5-15. Terms and conditions of certificate.
57-5-17. Creation of park or district by municipalities or counties acting jointly.
57-5-19. Rules and regulations; laws governing bonds and elections.
57-5-21. Powers and duties as to industrial parks conferred on other political subdivisions or units; eminent domain.
57-5-23. Certificate as evidence of authority to exercise power of eminent domain.

§ 57-5-1. Declaration of public policy.

It is hereby declared that the state public welfare demands and the state public policy requires legislation to encourage the establishment of standard industrial parks or districts by various subdivisions of the state in order to further stimulate the industrial development of the state.

SOURCES: Codes, 1942, § 8940-01; Laws, 1960, ch. 386, § 1, eff on and after July 1, 1960.

Cross References — Supplemental authority for participation in projects and issuance of bonds for solid or hazardous waste treatment projects, see §§ 17-17-101 et seq.

Development, use and operation of industrial parks by economic development districts in certain counties, see § 19-5-99.

Establishment of a county industrial authority and its powers and responsibilities in connection with industrial park complexes, see §§ 57-31-1 et seq.

Authority of regional airport authority to develop and operate an industrial park or parks, see § 61-3-15.

ATTORNEY GENERAL OPINIONS

Sections 57-5-1 through 57-5-23 provide an option for counties interested in acquiring and marketing property for industrial prospects; these statutes provide for the encouragement of industrial parks. Wolfe, Feb. 2, 2001, A.G. Op. #2001-0018.

RESEARCH REFERENCES

Am Jur. 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions §§ 184, 190, 193, 517, 518.

§ 57-5-3. Encouragement of establishment of parks.

The Mississippi Agricultural and Industrial Board, hereinafter referred to as the "board," shall be and is hereby authorized, empowered and directed to encourage the establishment of such industrial parks or districts where said parks or districts are found to be necessary to the development of the several municipalities of this state, including counties, supervisors districts, cities, towns or villages, or combinations thereof lying in the same or in adjacent counties, all hereinafter referred to as "municipalities."

SOURCES: Codes, 1942, § 8940-02; Laws, 1960, ch. 143, § 1, eff on and after July 1, 1960.

Editor's Note — Section 57-1-2 provides that references to the Agricultural and Industrial Board shall mean the Department of Economic and Community Development.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-5-5. Establishment of minimum requirements for industrial park or district.

The board shall establish, adopt and promulgate certain specific minimum requirements that will clearly describe and define the minimum requirements for an industrial park or district within the meaning of this chapter. Such minimum requirements shall, in all cases, include a complete engineering study composed of maps of the proposed park or district, details of proposed development, and itemized estimate of all costs involved in acquiring and developing such industrial park or district. Such engineering study, including the details of the proposed development and the cost estimates shall be made by a reputable engineer or engineering firm licensed to do business in Mississippi and qualified to make a survey or study of the cost and feasibility of such an industrial park or district.

SOURCES: Codes, 1942, § 8940-03; Laws, 1960, ch. 386, § 3, eff on and after July 1, 1960.

Editor's Note — Section 57-1-2 provides that references to the Agricultural and Industrial Board shall mean the Department of Economic and Community Development.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-5-7. Assistance to municipality in studying feasibility of establishing industrial park; conduct of joint study by state and municipality.

When any municipality shall desire to have a study made to determine the cost and feasibility of establishing a standard industrial park or district, the governing body of such municipality may, by resolution, make application to the agricultural and industrial board for the assistance to the municipality provided by this chapter. Upon receipt of a written request for such assistance from the governing body of such municipality, the board is authorized and empowered to jointly undertake the study by mutual and written consent with the municipality, and to jointly employ an engineer or engineering firm to make the study. In case of such joint action by the board and the municipality, the board is authorized and empowered to pay up to twenty-five percent (25%) of the cost of such jointly authorized engineering study. However, the amount to be paid by the board shall not exceed a total of two thousand dollars ($2,000.00) for any one municipality.

SOURCES: Codes, 1942, § 8940-04; Laws, 1960, ch. 386, § 4, eff on and after July 1, 1960.

Editor's Note — Section 57-1-2 provides that references to the Agricultural and Industrial Board shall mean the Department of Economic and Community Development.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-5-9. Determination of necessity for establishment of industrial park or district.

The board is charged with the duty of making effective the declared public policy of the state and municipalities as hereinabove set forth, and for that purpose is hereby authorized and empowered to determine whether the public convenience and necessity require that any municipality shall have the right to acquire lands, and thereon to bring into completion such "standard" industrial districts or parks and to dispose of or rent, let or lease any part or parts or all of such developed parks or districts for industrial purposes.

SOURCES: Codes, 1942, § 8940-05; Laws, 1960, ch. 386, § 5, eff on and after July 1, 1960.

Editor's Note — Section 57-1-2 provides that references to the Agricultural and Industrial Board shall mean the Department of Economic and Community Development.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere

the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-5-11. Application for certificate by municipality; hearings on application.

Each municipality within this state shall have the right to apply to the board for a certificate of public convenience and necessity from the board as to whether the general welfare requires that such municipality enter into the development of such a "standard" industrial park or district. In determining whether such certificate shall be issued, the board may hold hearings, make such investigation as may be desired, and shall have power to summon witnesses, administer oaths, hear testimony and make a record of all things had and done at such hearings or investigations, and to order issued such certificates of convenience and necessity as to the board may seem advisable.

SOURCES: Codes, 1942, § 8940-06; Laws, 1960, ch. 386, § 6, eff on and after July 1, 1960.

Editor's Note — Section 57-1-2 provides that references to the Agricultural and Industrial Board shall mean the Department of Economic and Community Development.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Application for certificate of public convenience and necessity by municipality seeking to establish industrial enterprise, see § 57-1-19.

Application for certificate of public convenience and necessity by municipality seeking to develop plans for industrial plant training and recruitment, see § 57-9-7.

§ 57-5-13. Factors to be determined in ruling upon application for certificate; authority conferred by certificate; disposition of proceeds from sale, lease, etc. of park.

The board shall investigate, find and determine, upon application of any municipality therefor, as to whether a certificate of public convenience and necessity shall be issued to such municipality to engage in the acquisition and development of a "standard" industrial park or district deemed essential under the above declared public policy for the economic development and advancement of said municipality, and in considering and determining whether or not such certificate shall be issued, the board shall find and determine affirmatively the following:

(1) That there are sufficient natural resources readily and economically available to attract industrial plants to sites within said municipality or (in

the case of a city, town or village constituting a municipality as defined in this chapter) situate in reasonable proximity thereto.

(2) That there is available a labor supply to furnish workers to plants that might be induced to locate in such industrial park or district.

(3) That there are adequate property values and suitable financial conditions so that the total bonded indebtedness of the municipality, solely for the purposes authorized by this chapter, shall not exceed ten percent (10%) of the total assessed valuation of all the property in the municipality.

(4) That the complete engineering study reveals that a suitable site for a "standard" industrial park or district does exist within the municipality or (in the case of a city, town or village constituting a municipality as defined in this chapter) situate in reasonable proximity thereto, and that it can be properly developed at costs that will make sites in the proposed district attractive to prospective new industries.

When the board shall have determined said facts favorably, it is authorized and empowered to issue or refuse to issue a certificate of public convenience and necessity to said municipality to acquire and properly develop the said "standard" industrial park or district. If and when such certificate is issued, it shall authorize the particular municipality to acquire, to own, to develop, to sell, to convey, to let, to lease or to rent any part, or parts, or all of said industrial district but said certificate shall expire in twelve (12) months from its date unless within said time such industrial park or district shall have been established; subject, however, to any delays necessitated by any litigation, or acts of God, delaying the establishment of said development.

Should any municipality sell, convey, let, lease or rent any part or parcel of an industrial park established under this chapter, the municipality must receive a consideration therefor, equal to an amount which said part or parcel so sold, conveyed, let, leased or rented bears to its proportionate part of the total cost of the entire industrial park. Any sums received by said municipality from the sale or lease of any part or parcel of said industrial park shall be paid into a sinking fund to be designated and used for the payment of both principal and interest on all bonds issued by the municipality for the purpose of acquiring and developing said industrial park or parks.

SOURCES: Codes, 1942, § 8940-07; Laws, 1960, ch. 386, § 7, eff on and after July 1, 1960.

Editor's Note — Section 57-1-2 provides that references to the Agricultural and Industrial Board shall mean the Department of Economic and Community Development.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Issuance of certificate of public convenience and necessity to municipality seeking to establish industrial enterprise, see § 57-1-21.

Issuance of certificate of public convenience and necessity to municipality seeking to develop plans for industrial plant training and recruitment, see § 57-9-7.

§ 57-5-15. Terms and conditions of certificate.

If and when the certificate is issued, the board therein shall fix and determine: (1) The extent and the amount to which the municipality may issue bonds or make expenditures for such development; (2) what property may be acquired therefor; (3) the terms upon which such acquisition may be had; (4) what expenditures may be made to properly develop said property into a "standard" industrial park or district; and, (5) the method of operation of said industrial park by the municipality.

SOURCES: Codes, 1942, § 8940-08; Laws, 1960, ch. 386, § 8, eff on and after July 1, 1960.

Editor's Note — Section 57-1-2 provides that references to the Agricultural and Industrial Board shall mean the Department of Economic and Community Development.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Laws governing bonds and elections, see § 57-5-19.

§ 57-5-17. Creation of park or district by municipalities or counties acting jointly.

Municipalities of this state, including counties, judicial districts of counties having two judicial districts in which State Highways No. 18 and 15 intersect or in which State Highway No. 6 and Interstate Highway No. 55 intersect, supervisors districts, cities, towns or villages whether existing under special charters or otherwise, hereinabove called "municipalities" acting severally or jointly with one or more other municipalities, be and each of them is hereby authorized and empowered to make effective the provisions herein contained, for the general welfare of the state and the several municipalities thereof. When and after such municipality shall have obtained therefor a certificate of public convenience and necessity, under the provisions of this chapter, then it may acquire land by purchase, gift or otherwise for the "standard" industrial park or district thus approved, and may directly or by contract, such contract to be entered into and governed as now provided by law for other public contracts entered into by boards of supervisors, grade, level, drain, build streets, wharf, dock and water terminal facilities, install water and sewage facilities, erect fences, establish an office, obtain and install such essential facilities, equipment or appliances, construct railroad spurs, contribute toward making rail and utility services available to the district subject to the provisions of Sections 77-3-1 through 77-3-89, Mississippi Code of 1972, and do such other things as may be essential to the complete development of said industrial district, including the right to operate the district, and with concurrence of the board, to sell, to convey, to let, to lease or to rent any part, or parts, or all of said district. The power thus to do is hereby generally conferred upon all such municipalities and shall be in addition to all other powers now possessed without in anywise limiting or circumscribing them.

Any city or town in this state situated in a county bordering on the Mississippi River and situated not more than five miles from the proposed site of any industrial park or district proposed to be created and established under the provisions of this chapter, such distance to be measured between the corporate line of any such city or town nearest such proposed site and the boundary of such proposed site nearest such corporate line, is hereby authorized and empowered to join with another municipality, as defined herein, in the creation, establishment, acquisition, ownership, control, sale, lease, disposition and disposal of any such industrial park or district, and the property, real and personal, acquired, owned or otherwise possessed and controlled by or for such industrial park or district under the authority of this chapter, notwithstanding the fact that the industrial park or district, or the proposed industrial park or district, and the property thereof, is situated in another supervisors district other than the supervisors district in which such city or town is situated. In all cases provided for in this paragraph, all authority, powers, privileges and rights provided for in this chapter shall be and are hereby conferred upon and vested in such city or town and such other municipality as may join therewith, as herein authorized.

SOURCES: Codes, 1942, § 8940-09; Laws, 1960, ch. 143, § 2; ch. 386, § 9; Laws, 1969, Ex. Sess. ch. 48, § 1; ch. 49, § 1, eff from and after passage (approved September 30, 1969).

Editor's Note — Section 57-1-2 provides that references to the Agricultural and Industrial Board shall mean the Department of Economic and Community Development.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Jurisdiction and powers of county board of supervisors generally, see § 19-3-41.

Powers of municipality generally, see § 21-17-1.

ATTORNEY GENERAL OPINIONS

Other than specific situations specified by statute, there is no statutory authority which would permit a municipality to enter into an interlocal agreement with a county whereby the two entities could jointly carry out the flood control and drainage activities on the described property; the best course of action may be for the city and county to pursue local and private legislation approving the property in question as an industrial park and authorizing the work necessary to address the potential flooding issue. Prichard, January 15, 1998, A.G. Op. #97-0784.

§ 57-5-19. Rules and regulations; laws governing bonds and elections.

The board is hereby authorized and empowered to adopt and put into effect all reasonable rules and regulations that it may deem necessary to carry out the provisions of this chapter, not inconsistent therewith, and the board and the municipalities receiving certificates of convenience and necessity under this chapter, shall be governed in holding municipal elections, in the issuance of municipal bonds, their forms, terms, the necessary tax levies, the exemption of bonds from taxation and the joining of various municipalities in establishing said industrial districts, by the same conditions, terms and laws applicable to the issuance of industrial bonds as authorized and provided by Sections 57-1-1 through 57-1-51, 57-1-101 through 57-1-107 and 57-1-131 through 57-1-145.

SOURCES: Codes, 1942, § 8940-10; Laws, 1960, ch. 386, § 10, eff on and after July 1, 1960.

Editor's Note — Section 57-1-2 provides that references to the Agricultural and Industrial Board shall mean the Department of Economic and Community Development.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

JUDICIAL DECISIONS

1. In general.

City of Hattiesburg could lawfully proceed with issuance of general obligation industrial park bonds under Chapter 886, Local and Private Laws of Mississippi, Regular Session 1984, which dispenses with the necessity for a bond issue election, except upon petition of 10 percent of the city's registered voters. Brandon v. City of Hattiesburg, 493 So. 2d 324 (Miss. 1986).

§ 57-5-21. Powers and duties as to industrial parks conferred on other political subdivisions or units; eminent domain.

The several municipalities of this state, including counties, supervisors districts, cities, towns or villages, or combinations thereof contiguous to and lying in the same or adjacent counties, all hereinafter referred to as "municipalities," shall have all the rights, powers and duties as contained in Sections 57-5-1 through 57-5-19, plus the right of eminent domain in the acquisition of up to twenty-five percent(25%) of the land for a "standard" industrial park if and when the owner or owners of at least seventy-five percent (75%) of the acreage involved have either sold such acreage to the municipality or placed such acreage under option to said municipality.

SOURCES: Codes, 1942, § 8940-21; Laws, 1960, ch. 437, § 1, eff on and after July 1, 1960.

Cross References — Eminent domain generally, see §§ 11-27-1 et seq.

Certificate of public convenience and necessity as evidence of municipality's authority to use power of emininent domain, see § 57-5-23.

§ 57-5-23. Certificate as evidence of authority to exercise power of eminent domain.

The Mississippi Agricultural and Industrial Board, hereinafter referred to as the "board," in issuing a certificate of public convenience and necessity to a municipality to engage in the acquisition and development of a "standard" industrial park or district shall be advised by the municipality of its need to use the power of eminent domain in the acquisition of a part of the acreage involved, not to exceed twenty-five percent (25%), and the board shall so specify in said certificate, which shall be the municipality's evidence of authority to use the power of eminent domain as above specifically defined.

SOURCES: Codes, 1942, § 8940-22; Laws, 1960, ch. 437, § 2, eff on and after July 1, 1960.

Editor's Note — Section 57-1-2 provides that references to the Agricultural and Industrial Board shall mean the Department of Economic and Community Development.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Eminent domain generally, see §§ 11-27-1 et seq.

CHAPTER 7

Sale or Development of Airport Lands, or Other Lands, for Industrial Purposes

Sec.
57-7-1. Sale or lease of surplus government lands for improvement for industrial and commercial purposes; improvement of property.
57-7-3. Authorization for issuance of bonds; sale of bonds; interest rate; liability on bonds.
57-7-5. Details of bonds.
57-7-7. Notice of intent to issue bonds; requirement of election on bond issue.
57-7-9. Conduct of election.
57-7-11. Determination of results of election.
57-7-13. Construction of chapter; applicability of debt limitation.

§ 57-7-1. Sale or lease of surplus government lands for improvement for industrial and commercial purposes; improvement of property.

In the event that any municipality, county, supervisors district, municipal airport authority, regional airport authority or other governmental subdivision shall have surplus airport land or other lands which are not needed for airport purposes or for other governmental purposes, then such property so designated and described may be set aside and improved for industrial and commercial purposes and the same may thereafter be operated or the same may be leased or sold upon such terms and conditions as a municipality, county, municipal airport authority, regional airport authority or governmental subdivision shall prescribe.

In order to provide for the improvement of such property for industrial and commercial purposes, the municipality or other authority shall be authorized to provide all necessary utilities therefor and to lay out, construct and/or improve and hard-surface roadways, streets, driveways and access roads, railroads and spur tracks, and provide for the grading, drainage, sewer, lights and water, and all other necessary or proper utilities as may be necessary or proper to make such land desirable or useful as a site or sites for industrial and commercial enterprises. The cost and expense of such improvements to said real estate shall be paid for from funds made available from the lease or sale of such lands to the extent such funds are available.

SOURCES: Codes, 1942, § 7545-61; Laws, 1964, ch. 290, § 1; Laws, 1980, ch. 410, § 2; Laws, 1992, ch. 379, § 6, eff from and after July 1, 1992.

Cross References — Sales of county real estate generally, see § 19-7-3.

Power of municipality to sell and convey its real property, see § 21-17-1.

Industrial parks and districts, see §§ 57-5-1 et seq.

Authority to borrow money and issue revenue bonds for improving and developing airport properties for industrial purposes, see § 57-7-3.

Authority of regional airport authority to develop and operate an industrial park or parks, see § 61-3-15.

JUDICIAL DECISIONS

1. Powers.
2. Improvements.
3. Classification of property.
4. Appeal perfected.
5. Sales price.

1. Powers.

City did not improperly use Miss. Code Ann. § 57-7-1 to bypass the bid process in Miss. Code Ann. § 21-17-1 because the powers in § 21-17-1(13) were supplemental to other laws. Ball v. Mayor & Bd. of Aldermen, 983 So. 2d 295 (Miss. 2008).

2. Improvements.

Clear and unambiguous language of Miss. Code Ann. § 57-7-1 does not mandate that surplus land must be set aside and improved by a municipality. Therefore, a sale prior to the making of improvements was not improper. Ball v. Mayor & Bd. of Aldermen, 983 So. 2d 295 (Miss. 2008).

3. Classification of property.

City did not err by classifying property as commercial when it was sold as surplus where there was a proposed development for condominiums, even though the property was zoned as a waterfront development district. Ball v. Mayor & Bd. of Aldermen, 983 So. 2d 295 (Miss. 2008).

4. Appeal perfected.

Appeal from a decision to extend an option agreement was perfected because a judge ordered the parties to work out an agreement for the contents of the record, and the record contained a final amended and consolidated bill of exceptions signed by a mayor. This bill of exceptions included the objections to the meeting where an option was extended. Ball v. Mayor & Bd. of Aldermen, 983 So. 2d 295 (Miss. 2008).

5. Sales price.

City's sale of property for $500,000 was reasonable because the goal of economic development was not to receive the highest price; a sale or lease under Miss. Code Ann. § 57-7-1 was for good and valuable consideration, but not necessarily for fair market value. Ball v. Mayor & Bd. of Aldermen, 983 So. 2d 295 (Miss. 2008).

ATTORNEY GENERAL OPINIONS

State law does require, that the sale or lease of property for industrial development purposes be for good and valuable consideration and not be such as would constitute a donation or gratuity. Barnett, Nov. 27, 1991, A.G. Op. #91-0891.

The term "municipality" includes counties for purposes of this section, and this section does not require advertisement for bids; further, sales and leases pursuant to this section do not necessarily require fair market value but should be made for good and valuable consideration and not be such as would constitute a donation or gratuity. Moffett, February 12, 1999, A.G. Op. #99-0030.

An airport authority that sells surplus airport property pursuant to § 57-7-1 does not have to comply with the terms of § 61-3-19. Crowell, July 26, 2002, A.G. Op. #02-0358.

A county may, pursuant to the authority provided in this section, renew the lease on property used as an industrial development project with the current tenant on such terms and conditions and with such safeguards as will best promote and protect the public interest; alternatively, if a board of supervisors makes the findings required by Section 19-7-3 and same are reflected by an appropriate order entered upon the minutes, then the board may renew a lease with the current tenant without advertising for bids. Dulaney, July 7, 2003, A.G. Op. 03-0281.

Sales and leases pursuant to this section do not necessarily require fair market value, but should be made for good and valuable consideration. Brown and Smith, Aug. 8, 2003, A.G. Op. 03-0396.

A county may sell surplus property pursuant to this section or Section 19-7-3 upon a proper finding spread across the minutes of the board of supervisors. Likewise, appropriate easements for ingress and egress may be granted as well as a lease of adjacent property for parking purposes for additional consideration. Brown and Smith, Aug. 8, 2003, A.G. Op. 03-0396.

The governing authorities of a city, upon the proper factual findings, may utilize the provisions of this section to lease property which is not needed for municipal purposes to a health and fitness club for construction of an athletic and fitness center. Campbell, Oct. 24, 2003, A.G. Op. 03-0560.

Pursuant to the authority granted by this section, municipal governing authorities may agree to lease surplus municipal property for industrial or commercial purposes for a term which exceeds the term of the current board, upon the determination that such an extended term is necessary and is in the public's best interests. However, as there is no specific authority to bind successor boards to the terms of the proposed lease, any such lease would be subject to the approval of such successor boards. Campbell, Oct. 24, 2003, A.G. Op. 03-0560.

Pursuant to this section, a municipality may modify the terms of a lease of municipally owned land and building where the municipality deems that said land and building is not needed for airport or other governmental purposes. Further, the municipality may grant to said lessee those terms and conditions which the municipality deems constitute good and valuable consideration and in the public's best interest. Dedeaux, May 28, 2004, A.G. Op. 04-0214.

Section 57-7-1 does not contemplate or authorize municipal governing authorities to convey "development/air rights" upon a finding that the air space above municipally owned real property is "not necessary for governmental purposes." McCluer, Jan. 26, 2006, A.G. Op. 05-0590.

Under the authority of Section 57-7-1, a town may lease surplus real property to a local industry without complying with the provisions of Section 21-17-1. Sennett, Feb. 10, 2006, A.G. Op. 06-0024.

Pursuant to Sections 19-7-3 and/or 57-7-1, a county cooperative service district may sell a building to a county without necessity of advertising for bids. Sanders, Sept. 1, 2006, A.G. Op. 06-0349.

Under Miss. Code Ann. § 61-5-39, the Tunica County Airport Commission, a joint venture of the Town of Tunica and Tunica County, may dispose of its unused real property by leasing or selling it to a nonprofit organization for use as a homeless shelter, with the consent of the governing authorities of both the town and the county, and using the procedures outlined in Miss. Code Ann. §§ 19-7-3, 21-17-1 or 57-7-1. Dulaney, March 16, 2007, A.G. Op. #07-00125, 2007 Miss. AG LEXIS 107.

RESEARCH REFERENCES

Am Jur. 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions §§ 485 et seq., 493 et seq.

CJS. 63 C.J.S., Municipal Corporations §§ 1152, 2493 et seq.

§ 57-7-3. Authorization for issuance of bonds; sale of bonds; interest rate; liability on bonds.

For the purpose of providing funds to defray the expenses of improving and developing the airport properties as set forth in Section 57-7-1, the said municipality or other authority shall have the right to borrow money for the industrial improvement of its lands and property, and to issue revenue bonds therefor, payable out of any revenues derived from such property, including grants or contributions from the federal government or other sources. Such bonds may be sold at public or private sale at not less than par and shall bear interest at a rate or rates not exceeding that allowed in Section 75-17-103, Mississippi Code of 1972. Any such bonds so issued shall not constitute a debt of any municipality, the state, or any political subdivision thereof, other than the municipality or other authority.

SOURCES: Codes, 1942, § 7545-62; Laws, 1964, ch. 290, § 2; Laws, 1976, ch. 425; Laws, 1981, ch. 462, § 13; Laws, 1982, ch. 434, § 26; Laws, 1983, ch. 541, § 32, eff from and after passage (approved April 25, 1983).

Cross References — Details of bonds, see § 57-7-5.
Notice of intent and bond issue election, see §§ 57-7-7, 57-7-9.

ATTORNEY GENERAL OPINIONS

A county may sell surplus property pursuant to Section 19-7-1 or this section upon a proper finding spread across the minutes of the board of supervisors. Likewise, appropriate easements for ingress and egress may be granted as well as a lease of adjacent property for parking purposes for additional consideration. Brown and Smith, Aug. 8, 2003, A.G. Op. 03-0396.

§ 57-7-5. Details of bonds.

All bonds issued under the authority of this chapter shall bear such date or dates, shall be in such form or denomination, shall bear such rate of interest, and shall mature at such times as the said municipality or other authority shall determine, but no bonds issued under the authority of this chapter shall mature more than twenty-five (25) years from the date of the issuance thereof and none of said bonds shall be sold for less than par and accrued interest. All such bonds shall be sold in the manner now provided by law for the sale of bonds without any restrictions, limitations, requirements or conditions applicable to the borrowing of such money and the issuance of such bonds which are not herein contained. The denomination, form, place of payment and other details of such bonds may be determined by resolution or order of the municipality or other authority, and shall be executed on behalf of the municipality or other authority as is now provided by law.

SOURCES: Codes, 1942, § 7545-63; Laws, 1964, ch. 290, § 3, eff from and after passage (approved May 15, 1964).

Cross References — Validation of public bonds, see §§ 31-13-1 et seq.

§ 57-7-7. Notice of intent to issue bonds; requirement of election on bond issue.

Before issuing any bonds under the provisions of this chapter, the municipality or other authority shall, by resolution spread upon the minutes, declare its intention to issue such bonds for the purposes authorized by this chapter and shall state in said resolution the amount of bonds proposed to be issued and shall likewise fix in said resolution the date upon which the said municipality or other authority proposes to direct the issuance of such bonds. Notice of such intention shall be published once a week for at least three (3) consecutive weeks in a newspaper published or having a general circulation in the municipality or the governmental subdivision issuing the bonds, with the first publication of said notice to be made not less than twenty-one (21) days prior to the date fixed in the resolution for the issuance of said bonds and the last publication to be made not more than seven (7) days prior to such date. If, on or before the date specified in the resolution, twenty percent (20%) of the qualified electors of the municipality or other governmental subdivision shall file a written protest against the issuance of such bonds, then an election upon the issuance thereof shall be called, and held, as is hereby provided. If no such protest shall be filed, then the said municipality or other authority may issue such bonds without an election on the question of the issuance thereof at any time within a period of two (2) years after the date specified in the resolution.

SOURCES: Codes, 1942, § 7545-64; Laws, 1964, ch. 290, § 4, eff from and after passage (approved May 15, 1964).

§ 57-7-9. Conduct of election.

If an election shall be called under the provisions of this chapter on the question of the issuance of bonds, the election shall be held, insofar as practicable, in the same manner as other elections are held in said municipality or other governmental subdivision. At such election, all qualified electors of the municipality or other governmental subdivision may vote and the ballots used in such election shall have printed thereon a brief statement of the amount and purposes of the proposed bond issue and the words "FOR THE BOND ISSUE" and the words "AGAINST THE BOND ISSUE," and the voters shall vote by placing a cross (X) or check mark (√) opposite their choice on the proposition.

SOURCES: Codes, 1942, § 7545-65; Laws, 1964, ch. 290, § 5, eff from and after passage (approved May 15, 1964).

§ 57-7-11. Determination of results of election.

When the results of any election hereinabove provided for shall have been canvassed by the election commissioners of said municipality or governmental district and certified by them to the proper authorities, it shall be the duty of the municipality or other authority involved to determine and adjudicate whether or not a majority of the qualified electors who voted in such election voted in favor of such bonds and unless a majority of the qualified electors who voted in said election shall have voted in favor of such bonds, then the same shall not be issued. Should a majority of the qualified electors who vote in such election vote in favor of said bonds, the municipality or other authority may issue said bonds, either in whole or in part, within two (2) years from the date of such election, or within two (2) years after final favorable determination of any litigation affecting the issuance of such bonds at such time or times, and in such amount or amounts, not exceeding that specified in the notice of the election, as shall be deemed proper.

SOURCES: Codes, 1942, § 7545-66; Laws, 1964, ch. 290, § 6, eff from and after passage (approved May 15, 1964).

ATTORNEY GENERAL OPINIONS

The Airport authority is empowered to negotiate such terms as it may prescribe consistent with the public responsibilities it has been entrusted; such terms do not necessarily require fair market value, especially since there are often other tangible benefits, such as job creation, associated with the contract. Barnett, Nov. 27, 1991, A.G. Op. #91-0891.

§ 57-7-13. Construction of chapter; applicability of debt limitation.

This chapter, without reference to any other statute, shall be deemed to be full and complete authority for the issuance of bonds and borrowing of money as hereby authorized by municipalities or other governmental authority, and shall be construed as an additional and alternate method therefor. The bonds hereby authorized shall not constitute an indebtedness within the meaning of any constitutional or statutory limitation or restriction.

SOURCES: Codes, 1942, § 7545-67; Laws, 1964, ch. 290, § 7, eff from and after passage (approved May 15, 1964).

CHAPTER 9

Industrial Plant Training

Sec.

57-9-1. Short title.
57-9-3. Declaration of public policy.
57-9-5. Plans for industrial plant training and recruitment; industrial revolving fund.
57-9-7. Issuance of certificate of public convenience and necessity and loan of funds to municipalities.
57-9-9. Repayment of loan.

§ 57-9-1. Short title.

This chapter may be cited as the "Industrial Training Law of 1964."

SOURCES: Codes, 1942, § 8939-11; Laws, 1964, ch. 220, § 1, eff from and after passage (approved March 18, 1964).

§ 57-9-3. Declaration of public policy.

It is hereby declared that the state public welfare demands, and the state public policy requires:

(a) That a balanced economic development of this state is essential.

(b) That the present and prospective health, safety, morals, pursuit of happiness, right of gainful employment and the general welfare of the citizens demand as a public purpose, the development within Mississippi of trade preparatory or industrial plant training and recruitment program for the various commercial, industrial, agricultural and manufacturing enterprises.

(c) That the means and measures herein authorized to promote said commercial, industrial, agricultural and manufacturing enterprises, are as a matter of public policy, for the public purposes of increasing gainful employment and business activities of the municipalities, counties, and supervisors districts of Mississippi, hereinafter called "municipalities."

(d) That the currently existing critical gap in the employment and use of skilled and semiskilled residents of the state resulting from deficient training programs and facilities be eliminated, and that the proper promotion of the health, safety, morals, pursuit of happiness, right of gainful employment, and the general welfare of the state demands the enactment of the program herein authorized.

(e) That the accomplishment of the things herein authorized will stimulate and provide ready and attractive employment for the skilled and semiskilled residents of the state through the proper increase of the skilled and semiskilled labor force available which will further develop the agricultural, commercial, industrial and other resources of the state for the general welfare.

SOURCES: Codes, 1942, § 8939-12; Laws, 1964, ch. 220, § 2, eff from and after passage (approved March 18, 1964).

§ 57-9-5. Plans for industrial plant training and recruitment; industrial revolving fund.

The Mississippi Agricultural and Industrial Board, hereinafter referred to as the "board," is hereby authorized and empowered to formulate and place into existence, plans for industrial plant training and recruitment for new and expanded industries, or both, in Mississippi. To that end, there is hereby created and provided within the board, in addition to all other funds that may be appropriated to the board, an "industrial revolving fund," and all sums of monies received or obtained by the board under the provisions of this chapter, by appropriation or otherwise, shall be paid into the State Treasury, and the State Treasurer shall deposit said monies into the industrial revolving fund. All expenditures therefrom shall be authorized by the board in the manner hereinafter set forth and such expenditures shall be paid therefrom by the State Treasurer on warrants of the auditor of public accounts; and said auditor shall issue his warrant upon requisition properly signed by the director and secretary of the board.

SOURCES: Codes, 1942, § 8939-13; Laws, 1964, ch. 220, § 3, eff from and after passage (approved March 18, 1964).

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — State Treasurer generally, see §§ 7-9-1 et seq.

§ 57-9-7. Issuance of certificate of public convenience and necessity and loan of funds to municipalities.

Any municipality, hereinafter referred to as "the applicant," may, on behalf of any new or expanded industry, or both, in Mississippi, apply to the board for a loan, not to exceed twenty thousand dollars ($20,000.00) for any one (1) new or one (1) expanded industry, which funds shall be used exclusively for the purposes of preparatory or industrial plant training and recruitment. The board is authorized and empowered to determine whether the public convenience and necessity requires that the application therefor be approved or denied, and what amount, if any, should be loaned by the board to the applicant for said new or expanded industry. For the purpose of administering provisions of this chapter, the board shall establish reasonable rules and regulations to be followed by the applicant in making application for loans hereby authorized. The board shall investigate, find and determine as to whether a certificate of public convenience and necessity shall be issued and contract for a loan of funds to the applicant shall be made. In considering and determining whether or not such certificate of public convenience and necessity shall be issued and whether a loan shall be made or not, the board shall find and determine, to include, but not be limited to, the following:

(a) That the net worth of the new or expanded industry, on behalf of which the municipality is making said application, meets the prerequisites and requirements of the board. The applicant shall furnish upon request to the board such information with regard to the new or expanded industry's net worth as may be required by the board.

(b) That the new or expanded industry, on behalf of which the municipality is making such application, shall submit along with the applicant, a detailed and complete study of its training needs, plans, and total amount of funds to be used for industrial training and preparatory training only, and the same shall appear to be feasible and practicable to the board.

(c) That the new or expanded industry, on behalf of which the municipality is making such application, shall submit a plan of repayment, along with the applicant, and which repayment shall be made within five (5) years after the loan, and such plan shall be approved by the board.

When the board shall have determined said facts favorably, it is authorized and empowered, having due regard to the promotion of the public policy and general welfare herein declared, to issue or refuse to issue a certificate of public convenience and necessity to the applicant, approve or disapprove the loan of any part or all of the funds requested by the applicant. If and when said certificate is issued, and if and when said loan is approved, the board therein shall fix and determine:

(a) The amount of monies to be loaned.

(b) The time, amount, and method of repayment.

(c) The method, manner, and what legally valid and enforceable documents, promissory notes, deeds of trust, or contracts, or any combination thereof, shall be executed by the applicant and the new or expanded industry.

SOURCES: Codes, 1942, § 8939-14; Laws, 1964, ch. 220, § 4, eff from and after passage (approved March 18, 1964).

Editor's Note — Section 57-1-2 provides that references to the Agricultural and Industrial Board shall mean the Department of Economic and Community Development.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Certificate of public convenience and necessity required of municipality seeking to establish industrial enterprise, see § 57-1-19.

Certificate of public convenience and necessity required of municipality seeking to develop industrial park or district, see § 57-5-11.

§ 57-9-9. Repayment of loan.

In the event the board shall issue a certificate of public convenience and necessity to the applicant, and approve a loan of a sum, such sum as approved to be loaned, shall be disbursed to the applicant upon the execution of a legally valid and enforceable promissory note, deed of trust, or contract, or any combination thereof, by the new or expanded industry and the applicant, in accordance with the approved plan of repayment. In the event a contract is required by the plan of repayment, the board is authorized to join in the execution thereof. The board is further authorized to require such provisions and covenants in such promissory note, deed of trust, or contract, or any combination thereof, deemed reasonably necessary to carry out the provisions of this chapter and require the repayment of said loans. The board and municipalities are further authorized to institute suit, at law or equity, to cause the repayment of such loans, and to protect the interest of the State of Mississippi, and may employ private counsel to do so.

SOURCES: Codes, 1942, § 8939-15; Laws, 1964, ch. 220, § 5, eff from and after passage (approved March 18, 1964).

Editor's Note — Section 57-1-2 provides that references to the Agricultural and Industrial Board shall mean the Department of Economic and Community Development.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

CHAPTER 10

Small Business Assistance

Article 1. Mississippi Business Finance Corporation 57-10-1
Article 3. Small Businessman's Loan Assistance Law of 1972 57-10-101
Article 5. Comprehensive Small Business Act of 1983 57-10-151
Article 7. Mississippi Small Business Financing Act 57-10-201
Article 9. Mississippi Business Finance Corporation Beginning Farmer Program 57-10-301
Article 11. Bonds to Finance Economic Development Projects 57-10-401
Article 13. Mississippi Small Business Assistance Act 57-10-501
Article 15. State Small Business Credit Initiative 57-10-601
Article 17. Small Business and Grocer Investment Act 57-10-701

ARTICLE 1.

MISSISSIPPI BUSINESS FINANCE CORPORATION.

SEC.
57-10-1. Declaration of public policy and legislative intent.
57-10-3. Administration.
57-10-5 and 57-10-7. Repealed.
57-10-9. General purposes of corporation.
57-10-11 through 57-10-15. Repealed.
57-10-17. General powers and duties of board of directors.
57-10-19. Purchase of debentures and common stock of small business investment companies.
57-10-21. Conditions of loans to small business investment companies.
57-10-23. Annual fee of small business investment companies.
57-10-25. Funding of corporation; investments of corporation.
57-10-27. Repealed.
57-10-29. Disposition of funds received by corporation; annual audit.
57-10-31. Liabilities of officers, directors, agents, and employees of corporation.
57-10-33. Repealed.
57-10-35. Cooperation of state agencies and educational institutions.
57-10-37. Repealed.
57-10-39. Annual report.
57-10-41. Dissolution and liquidation.

§ 57-10-1. Declaration of public policy and legislative intent.

It is hereby declared to be the public policy of this state and the purpose of this article to improve and stimulate the state's economy in general, and the small business segment thereof in particular, by establishing a program to stimulate and supplement the flow of private equity capital and long-term loan funds which small business concerns of this state need for the sound financing of their business operations and for their growth, expansion and modernization, and which are not available in adequate supply. It is the intent of the legislature that this policy shall be carried out in such manner as to insure the maximum participation of private financing sources. It is further hereby declared that the public welfare of the state demands the establishment of such a program to provide for the maximum development of this state's agricultural, industrial and commercial resources, offering increased employment opportunities for all of the citizens of the state, encouraging the establishment of new agricultural, industrial and commercial enterprises and providing the citizens of the state of all races greater opportunities for entrepreneurship.

SOURCES: Codes, 1942, § 8940-101; Laws, 1972, ch. 439, § 1, eff from and after passage (approved May 4, 1972).

Cross References — Small Businessman's Loan Assistance Law of 1972, see §§ 57-10-101 et seq.

Mississippi Small Business Financing Act, see §§ 57-10-201 et seq.

Small business development center, see § 57-55-11.

Mississippi Polymer Institute, see § 57-55-13.

Small business investment companies generally, see §§ 79-7-1 et seq.

§ 57-10-3. Administration.

The Certified Development Company of Mississippi, Inc., created pursuant to Section 57-10-167, hereinafter referred to as the "corporation," shall exercise the powers and duties and discharge the responsibilities as provided herein.

SOURCES: Codes, 1942, § 8940-102; Laws, 1972, ch. 439, § 2; Laws, 1983, ch. 434, § 11; Laws, 1992, ch. 481 § 7, eff from and after passage (approved May 6, 1992).

Editor's Note — By the terms of § 57-10-167, the Certified Development Company of Mississippi, Inc. shall be known as the Mississippi Business Finance Corporation from and after July 1, 1989.

§§ 57-10-5 and 57-10-7. Repealed.

Repealed by Laws, 1983, ch. 434, § 14, eff from and after March 30, 1983. [Codes, 1942, §§ 8940-103, 8940-104; Laws, 1972, ch. 439, §§ 3, 4]

Editor's Note — Former § 57-10-5 provided for the name, existence and continuation of the Mississippi Economic Development Corporation; former § 57-10-7 provided for the domicile of the corporation.

§ 57-10-9. General purposes of corporation.

This corporation is organized, and it shall be operated primarily for the purpose of providing financial resources necessary to implement the economic development of the state by creating a pool of capital assets to expand the agricultural, industrial and commercial enterprises of the state and to provide loan guaranties for term loans to improve the marketability of such loans, and to encourage the expansion of available equity financing through small business investment companies.

SOURCES: Codes, 1942, § 8940-105; Laws, 1972, ch. 439, § 5; Laws, 1982, ch. 422, § 1, eff from and after passage (approved March 30, 1982).

Cross References — Restriction on exemption from ad valorem taxes levied for school district purposes, see § 57-3-33.

Intent to pool resources, see § 57-10-111.

Small business investment companies generally, see §§ 79-7-1 et seq.

Nonprofit, nonshare corporations generally, see §§ 79-11-501 et seq.

General provisions relating to banks and banking, see §§ 81-5-1 et seq.

§§ 57-10-11 through 57-10-15. Repealed.

Repealed by Laws, 1983, ch. 434, § 14, eff from and after March 30, 1983. [Codes, 1942, §§ 8940-106-8940-108; Laws, 1972, ch. 439, §§ 6-8]

Editor's Note — Former § 57-10-11 provided for the status of the Mississippi Economic Development Corporation as a nonprofit corporation; former § 57-10-13 provided for the general powers of the board of directors, quorum and meetings; and former § 57-10-15 provided for corporate officers.

§ 57-10-17. General powers and duties of board of directors.

The board of directors of the corporation is hereby authorized, in its discretion, based on sound business principles, to:

(a) Receive applications for and make direct term loans to small businesses, including any person, firm, corporation, joint stock company, partnership, association or trust located within the state unable to obtain sufficient funds for the successful operation of such businesses from conventional commercial sources or other governmental agencies or in the event the financial needs of such businesses exceed the legal loan limits of local banks or other financial institutions or in the event the degree of risk involved in extending loans to such businesses exceed local standards;

(b) Make direct equity investments and/or seed money loans to local economic development corporations;

(c) Seek the participation of private banks or financial institutions, either within or without the state, in the term loans extended by the corporation;

(d) Sell its own commercial paper and other evidences of indebtedness to obtain funds for the making of term loans to creditworthy businesses;

(e) Provide a loan guaranty program for conventional loans extended to qualified small businesses in the State of Mississippi;

(f) Sell its debenture bonds to banks and other financial institutions;

(g) Apply for and receive funds in any amount from any private source or federal governmental entity, or the Small Businessman's Loan Fund or Guaranty Fee Fund as authorized by Sections 57-10-101 through 57-10-137, whether by way of grant, donation or loan;

(h) Make contracts, including contracts for services, and incur liabilities for any of the purposes authorized herein;

(i) Borrow money for any of the purposes authorized herein; incur debt, including the power to issue therefor its bonds, debentures, notes or other evidences of indebtedness, whether secured or unsecured; and secure the same by mortgage, pledge, deed of trust or other lien on its property, rights and privileges of every kind and nature, or any part thereof, or interest therein;

(j) Purchase, receive, hold, lease or acquire by foreclosure, and sell, convey, transfer or lease real and personal property, together with such rights and privileges as may be incidental and appurtenant thereto and the use thereof, including, but not restricted to, any real or personal property acquired by the corporation from time to time in the satisfaction of debts or enforcement of obligations;

(k) Make all expenditures and incur any obligations reasonably required in the exercise of sound business principles to secure possession of, preserve, maintain, insure and, if necessary, improve real and personal property acquired in the liquidation of investments in order to realize the maximum return for the corporation on any sale or disposition thereof;

(*l*) Acquire, subscribe for, own, hold, sell, assign, transfer, mortgage or pledge the stock, shares, bonds, debentures, notes or other securities and evidences of interest in or indebtedness of any person, firm, corporation, joint stock company, partnership, association or trust, and, while the owner or holder thereof, exercise all the rights, powers and privileges of ownership, including the right to vote thereon;

(m) Mortgage, pledge or otherwise encumber any property right or thing of value acquired pursuant to the powers contained in paragraphs (j), (k) or (*l*) as security for the payment of any part of the purchase price thereof;

(n) Cooperate with and assist and otherwise encourage agencies, organizations, local or regional, private or public, in the various communities of the state in the promotion, assistance and development of the business prosperity and economic welfare of such communities or of this state or of any part thereof;

(o) Do all acts and things necessary and proper to create, form, participate in or fund a State SBA 503 program as authorized under Title V, Section 503 of the Small Business Investment Act of 1958, as amended, Section 697, Title XV, United States Code;

(p) Do all acts and things necessary and proper to carry out the powers expressly granted in this article, including, but not limited to, employment of administrative and clerical staff, and such other employees as may be necessary in its judgment and to fix their compensation, and to perform its powers and functions through its officers, agents and employees;

(q) Do all acts and things necessary and proper for the issuance of bonds for solid waste facilities;

(r) Do all acts and things necessary to operate the Mississippi Development Bank pursuant to Section 31-25-1 et seq.;

(s) Maintain an office in the name of the corporation at such place or places within this state as it may designate without the approval of any other state agency or department.

SOURCES: Codes, 1942, § 8940-109; Laws, 1972, ch. 439, § 9; Laws, 1982, ch. 422, § 2; Laws, 1992, ch. 481 § 8; Laws, 2001, ch. 337, § 27, eff from and after passage (approved Mar. 6, 2001.)

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Authority of small businessman's loan committee to transfer funds from small businessman's loan fund or guaranty fee fund, see § 57-10-111.

Small business investment companies generally, see §§ 79-7-1 et seq.

Nonprofit, nonshare corporations generally, see §§ 79-11-501 et seq.

Federal Aspects — Small Business Investment Act of 1958 is codified at 15 U.S.C.S. §§ 661 et seq.

State SBA 503 program as authorized under Title V, Section 503 of the Small Business Investment Act of 1958, see 15 U.S.C.S. § 697.

§ 57-10-19. Purchase of debentures and common stock of small business investment companies.

In addition to the other powers and authority prescribed by this article, the corporation may purchase debentures or the common stock of small business investment companies or minority enterprise small business investment companies, incorporated or domiciled in the state under the provisions of the Small Business Investment Law of 1958, as amended, which debentures may be subordinate to any other debenture bonds, promissory notes or other debts and obligations of such small business investment companies except for those purchased by the small business administration in accordance with the Federal Small Business Investment Act of 1958, as amended (15 USCS Sections 661 et seq.); any purchases by the corporation of stock shall be made from funds derived from sources other than the State of Mississippi. The corporation is prohibited from investing in both the stock and evidences of indebtedness of any company.

SOURCES: Codes, 1942, § 8940-112; Laws, 1972, ch. 439, § 12; Laws, 1982, ch. 422, § 3, eff from and after passage (approved March 30, 1982).

Cross References — Intent to pool resources and efforts of small businessman's loan program and Mississippi Economic Development Corporation, see § 57-10-111.

Small business investment companies generally, see §§ 79-7-1 et seq.

Federal Aspects — Small business investment companies, 15 USCS §§ 661 et seq.

§ 57-10-21. Conditions of loans to small business investment companies.

Any loans by the corporation to a small business investment company or minority enterprise small business investment company, shall be conditioned on the following:

(a) A loan to a small business investment company or minority enterprise small business investment company shall not exceed the amount of its outstanding portfolio investments or the amount of its private paid-in capital and paid-in surplus, whichever is less.

(b) The small business investment company or minority enterprise small business investment company must agree that the entire loan will be invested in firms located in this state.

(c) The repayment period for any such loan shall not exceed fifteen (15) years but such loans need not be amortized.

(d) Such other conditions as may be prescribed by the board of directors of the corporation.

SOURCES: Codes, 1942, § 8940-113; Laws, 1972, ch. 439, § 13, eff from and after passage (approved May 4, 1972).

§ 57-10-23. Annual fee of small business investment companies.

Any small business investment company or minority enterprise small business investment company wishing to participate under this article shall pay a five hundred dollar ($500.00) fee annually on July 1 to the corporation which shall be deposited in a qualified state depository, to the credit of the "Mississippi Economic Development Corporation." The annual fee paid on its initial application shall be prorated according to the date of application.

SOURCES: Codes, 1942, § 8940-115; Laws, 1972, ch. 439, § 15, eff from and after passage (approved May 4, 1972).

Editor's Note — The Economic Development Corporation was abolished effective July 1, 1983, and its powers, duties and authority were transferred to the Certified Development Company of Mississippi, Inc., as provided by § 57-10-169. By terms of § 57-10-167, the Certified Development Company of Mississippi, Inc. shall be known as the Mississippi Business Finance Corporation from and after July 1, 1989.

§ 57-10-25. Funding of corporation; investments of corporation.

It is the further intention of this article that the initial capital base of the corporation be raised from a combination of private foundation grants, any funds available from various federal programs, and such funds as may be appropriated by the state. Additional funding of the corporation may be derived from the sale of debenture bonds or long-term funding from the sale of the corporation's commercial paper and notes. Such additional funding and any guaranty executed by the corporation of any loan or investment, and any other obligations incurred by the corporation, shall be based solely on the credit of the corporation and shall not pledge or loan the credit of the state in aid of any person, association or corporation. Funds of the corporation shall be primarily invested in amortized loans of ten (10) years or shorter maturity. If feasible and possible, all loans extended by the corporation shall be made in participation with existing banks or other financial institutions.

SOURCES: Codes, 1942, § 8940-110; Laws, 1972, ch. 439, § 10, eff from and after passage (approved May 4, 1972).

§ 57-10-27. Repealed.

Repealed by Laws, 1982, ch. 422, § 6, eff from and after March 30, 1982.

[Codes, 1942, § 8940-118; Laws, 1972, ch. 439, § 18; Laws, 1974, ch. 547, § 2]

Editor's Note — Former § 57-10-27 permitted the Mississippi Economic Development Corporation to expend appropriated funds only to the extent of equal grants received.

§ 57-10-29. Disposition of funds received by corporation; annual audit.

All funds received by the corporation from any source whatsoever shall be deposited in a qualified state depository to the credit of the "Mississippi Economic Development Corporation," said funds to be disbursed therefrom upon checks drawn upon said account after approval of said board and signed by the chairman and treasurer of the corporation. The post audit division of state government shall audit said corporation's books not less than once each year.

SOURCES: Codes, 1942, § 8940-116; Laws, 1972, ch. 439, § 16, eff from and after passage (approved May 4, 1972).

Editor's Note — The Economic Development Corporation was abolished effective July 1, 1983, and its powers, duties and authority were transferred to the Certified Development Company of Mississippi, Inc., as provided by § 57-10-169. By terms of § 57-10-167, the Certified Development Company of Mississippi, Inc. shall be known as the Mississippi Business Finance Corporation from and after July 1, 1989.

Cross References — Joint legislative committee on performance evaluation and expenditure review, see §§ 5-3-51 et seq.

State department of audit, see §§ 7-7-201 et seq.

§ 57-10-31. Liabilities of officers, directors, agents, and employees of corporation.

No officer or director of this corporation shall ever be held personally liable for contracts, debts or defaults of this corporation nor shall any mere informality in organization have the effect of rendering these null or of exposing the officers or directors to any such liability or responsibility. However, the officers, directors, agents and employees of the corporation shall be liable for any fraudulent or illegal diversion or misappropriation of the funds of the corporation which any such person knowingly and willfully caused, permitted or conspired to permit to be made, and all such officers, directors, agents and employees entrusted with the custody of the securities of or authorized to disburse the funds of the corporation shall be bonded, either by a blanket bond or by individual bonds, with a surety bond or bonds with a minimum limitation of One Hundred Thousand Dollars ($100,000.00) coverage for each person covered thereby, conditioned upon the faithful performance of their duties, the premium for which shall be paid out of the assets of the corporation.

SOURCES: Codes, 1942, § 8940-116; Laws, 1972, ch. 439, § 16; Laws, 1974, ch. 547, § 1; Laws, 2001, ch. 337, § 28, eff from and after passage (approved Mar. 6, 2001.)

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

RESEARCH REFERENCES

ALR. Fairness to corporation where "corporate opportunity" is allegedly usurped by officer or director. 17 A.L.R.4th 479.

§ 57-10-33. Repealed.

Repealed by Laws, 1983, ch. 469, § 10, eff from and after July 1, 1983.
[Codes, 1942, § 8940-101; Laws, 1972, ch. 439, § 19]

Editor's Note — Former § 57-10-33 prohibited officers, directors and employees of the Mississippi Economic Development Corporation from having certain conflicting interests.

§ 57-10-35. Cooperation of state agencies and educational institutions.

All state agencies shall cooperate with the corporation, and all public institutions of higher education shall work with the corporation to facilitate the utilization of technological information by small businesses in this state.

SOURCES: Codes, 1942, § 8940-114; Laws, 1972, ch. 439, § 14, eff from and after passage (approved May 4, 1972).

§ 57-10-37. Repealed.

Repealed by Laws, 2001, ch. 337, § 34, eff from and after passage (approved March 6, 2001).

[Codes, 1942, § 8940-111; Laws, 1972, ch. 439, § 11, eff from and after passage (approved May 4, 1972).]

Editor's Note — Former § 57-10-37 provided that the administrative and staff services of the Mississippi Business Finance Corporation shall be provided by the Mississippi Agricultural and Industrial Board.

§ 57-10-39. Annual report.

An annual report concerning the operation of this article shall be submitted by the corporation to the Legislature.

SOURCES: Codes, 1942, § 8940-120; Laws, 1972, ch. 439, § 20; Laws, 2001, ch. 337, § 29, eff from and after passage (approved Mar. 6, 2001.)

§ 57-10-41. Dissolution and liquidation.

In the event of dissolution and liquidation of the corporation, whether voluntary or involuntary or by reason of the repeal of this article and thereby terminating its corporate existence, any surplus assets of the corporation in excess of the corporation's outstanding liabilities shall be transferred to the State of Mississippi and shall automatically vest in said state, and the chairman and treasurer of the corporation shall execute and deliver such conveyances or documents as are necessary to show title in the state or to vest such assets in the state.

SOURCES: Codes, 1942, § 8940-117; Laws, 1972, ch. 439, § 17, eff from and after passage (approved May 4, 1972).

ARTICLE 3.

SMALL BUSINESSMAN'S LOAN ASSISTANCE LAW OF 1972.

SEC.

57-10-101. Short title.
57-10-103. Declaration of intent; construction.
57-10-105. Definitions.
57-10-107. Repealed.
57-10-109. Manager.
57-10-111. General powers and duties of committee.
57-10-113. Eligibility for loan guaranty.
57-10-115. Loan guaranty fee; loan limitations and restrictions.
57-10-117. Supplementary security requirement for corporate borrower.
57-10-119. Advancement of loan in installments.
57-10-121. Proceedings by lender upon default on loan; assignment of unsatisfied judgment to state.
57-10-123. Filing of claim for payment of loan from state funds.
57-10-125. Collection of debt to state.
57-10-127. Distribution of collections by state.
57-10-129. Extent of liability of state funds.
57-10-131. Investment of moneys in state funds.
57-10-133. Acceptance of federal and private grant funds.
57-10-135. Liability of state and subdivisions for obligations and guarantees assumed by state funds.
57-10-137. Transfer of moneys to general fund upon termination of program.

§ 57-10-101. Short title.

This article shall be called the "Small Businessman's Loan Assistance Law of 1972."

SOURCES: Codes, 1942, § 8940-131; Laws, 1972, ch. 441, § 1, eff from and after July 1, 1972.

§ 57-10-103. Declaration of intent; construction.

The increasing need for commercial financing at reasonable rates for the small businessman necessitates a new loan guaranty program in order that the economy of the state may continue to grow and prosper. It is the intent of this article to encourage small business loans by furnishing lending institutions additional security to place such loans on a sound, financial basis and reap statewide benefits resulting from an expanded economy. This article is intended to strengthen the economic security of this state and insure its permanent financial well-being.

This article is hereby declared to be a public necessity, is remedial in purpose, and should be liberally construed to effect its purpose.

SOURCES: Codes, 1942, § 8940-132; Laws, 1972, ch. 441, § 2, eff from and after July 1, 1972.

Cross References — Restriction on exemption from ad valorem taxes levied for school district purposes, see § 57-3-33.

§ 57-10-105. Definitions.

Whenever the following terms or similar terms are used herein they shall have the following meanings, unless the context clearly indicates otherwise:

(a) "Borrower" means any individual, firm, partnership or corporation approved by the committee, residing in Mississippi who applies for or borrows money from any lender under the provisions of this article.

(b) "Lender" shall mean any state or national bank, savings and loan association or insurance company doing business in Mississippi, which is approved by the committee.

(c) "Manager" means the Executive Director of the Mississippi Business Finance Corporation.

(d) "Committee" means the Certified Development Company of Mississippi, Inc., created pursuant to Section 57-10-167.

(e) "Loan guaranty" means additional security to the lender by the state for loans to small businessmen in this state.

(f) "Guaranty fee fund" means a revolving fund maintained in the State Treasury as a separate fund composed of guaranty fee payments from loans made under the provisions of this article.

(g) "Small businessman's loan fund" means a separate and additional fund maintained in the State Treasury by appropriation from the state Legislature and used exclusively to guarantee loans as herein provided.

(h) "Transfer" means to loan, to give, to make available or to pass control of any available funds held in paragraphs (f) and (g) above to the Mississippi Economic Development Corporation, or its successor.

SOURCES: Codes, 1942, § 8940-133; Laws, 1972, ch. 441, § 3; Laws, 1982, ch. 422, § 4; Laws, 1983, ch. 434, § 12; Laws, 1988, ch. 518, § 46; Laws, 2001, ch. 337, § 30, eff from and after passage (approved Mar. 6, 2001.)

Editor's Note — A small businessman's loan committee was abolished effective July 1, 1983, and the powers, duties and authority granted to the committee were transferred to the Certified Development Company of Mississippi, Inc., as provided by § 57-10-169. By terms of § 57-10-167, the Certified Development Company of Mississippi, Inc. shall be known as the Mississippi Business Finance Corporation from and after July 1, 1989.

Section 57-1-2 provides that the "Department of Economic Development" shall mean the "Department of Economic and Community Development", and that executive director of the Mississippi Department of Economic Development shall mean the executive officer of the Mississippi Department of Economic and Community Development.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Authority of board of directors of Mississippi Economic and Community Development Department to receive funds from small businessman's loan fund or guaranty fee fund, see § 57-10-17.

Intent to pool resources and efforts of small businessman's loan program and Mississippi Economic Development Corporation program, see § 57-10-111.

General provisions relating to banks and banking, see §§ 81-5-1 et seq.

§ 57-10-107. Repealed.

Repealed by Laws, 1983, ch. 434, § 15, eff from and after March 30, 1983. [Codes, 1942, § 8940-134; Laws, 1972, ch. 441, § 4]

Editor's Note — Former § 57-10-107 provided for a small businessman's loan committee, its membership, per diem and expenses.

§ 57-10-109. Manager.

The manager shall be required to have a surety bond in an amount to be fixed by the committee.

The manager, subject to the approval of the committee, is authorized to employ such additional technical, clerical and stenographic assistance as may be necessary to carry out the provisions of this article. It is hereby made the duty of all of the departments and agencies of the state government to give aid and assistance to the manager in administering this program.

SOURCES: Codes, 1942, § 8940-137; Laws, 1972, ch. 441, § 7; Laws, 2001, ch. 337, § 31, eff from and after passage (approved Mar. 6, 2001.)

§ 57-10-111. General powers and duties of committee.

The committee is authorized and empowered to prepare and promulgate reasonable rules, regulations and policies for applications for loans, credit instruments, and any and all other forms, rules, policies, regulations or procedures desirable in order to carry out the provisions of this article. The committee shall determine the amount of the guaranty fee to be paid under the provisions of this article, subject to the limitations set forth in Section 57-10-115. Such guaranty fee payments shall be deposited in the guaranty fee fund. It shall also be the duty of the committee to formulate the policies to be administered by the manager under the provisions of this article. The function of the committee shall be that of policy-making and the functions of the manager shall be administrative.

In addition to the power and authority granted herein, the committee is hereby authorized to use any available funds in the small businessman's loan fund or the guaranty fee fund to be used for any authorized and legal purposes as contained in Sections 57-10-1 through 57-10-41, irrespective and notwithstanding any limitations, restrictions or other provisions of this article.

It is the intent of this section and the 1982 and 1983 amendments to Article 1 and Article 3 of this chapter, that the small businessman's loan program and the Mississippi Economic Development Corporation program shall pool and combine the resources and efforts of each to make them more readily available to the needs of the small businessmen and women of this state.

However, in the event a loan is made to the Mississippi Economic Development Corporation or its successor, the maximum liability limit as expressed in Sections 57-10-115(3) and 57-10-133 shall automatically be reduced by an amount equal to five (5) times the amount of the loan.

The committee is hereby authorized and empowered to establish and put in effect reasonable terms and conditions on any and all such transfers to the corporation regarding repayment of any transfers and security therefor, if applicable, default provisions and annual reporting on the status of any transfer.

SOURCES: Codes, 1942, § 8940-136; Laws, 1972, ch. 441, § 6; Laws, 1982, ch. 422, § 5; Laws, 1983, ch. 434, § 13, eff from and after passage (approved March 30, 1983).

Editor's Note — The Mississippi Economic Development Corporation was abolished by § 57-10-169, effective from and after July 1, 1983, and its powers, duties and authority transferred to the Certified Development Company of Mississippi.

Section 57-10-167 provides that from and after July 1, 1989, the Certified Development Company of Mississippi shall be known as the Mississippi Business Finance Corporation.

Cross References — Authority of Mississippi Business Finance Corporation to receive funds from small businessman's loan fund or guaranty fee fund, see § 57-10-17.

§ 57-10-113. Eligibility for loan guaranty.

A borrower may apply to the committee for a loan guaranty necessary to meet the lender's approval of the loan. The borrower must demonstrate his inability to obtain conventional financing, and thus the need for the state loan guaranty.

SOURCES: Codes, 1942, § 8940-135; Laws, 1972, ch. 441, § 5; Laws, 1995, ch. 548, § 1, eff from and after passage (approved April 6, 1995).

§ 57-10-115. Loan guaranty fee; loan limitations and restrictions.

(1) On every loan, the borrower shall pay a nonrefundable guaranty fee of two percent (2%) of the guaranteed portion, to be paid at the time of disbursement of loan proceeds. Upon collection, the committee shall remit all such guaranty fees to a special fund for such fees created by the State Treasurer.

(2) No loan guaranty made by the committee shall exceed seventy-five percent (75%) of the principal of the loan.

(3) The amount of all outstanding loan guaranties shall not exceed five (5) times the combined total amount in the Small Businessman's Loan Fund, plus the guaranty fee fund and accrued interest on both funds, provided the liability of the two (2) funds shall not exceed Fifteen Million Seven Hundred Fifty Thousand Dollars ($15,750,000.00).

(4) No guaranty made under the provisions of this article shall be an amount exceeding Three Hundred Seventy-five Thousand Dollars ($375,000.00) principal, and the term thereof shall not exceed twenty (20) years.

(5) More than one (1) loan may be outstanding to any one (1) borrower at any one (1) time; provided, however, that the aggregate amount of all loan guaranties to any one (1) borrower shall not exceed Three Hundred Seventy-five Thousand Dollars ($375,000.00).

(6) The total amount of a loan secured by any real and/or personal property, including any previous indebtedness incurred against real and/or personal property offered as security for such loan, shall not exceed ninety percent (90%) of the market value as determined by an appraisal made by the lender. In determining the amount of indebtedness to be incurred against any real or personal property securing such a loan, the lender may consider the enhanced value of the real property and any other additional capital assets accruing to the borrower through loans provided under this article.

SOURCES: Codes, 1942, § 8940-138; Laws, 1972, ch. 441, § 8; Laws, 1973, ch. 468, § 1; Laws, 1974, ch. 552, § 1; Laws, 1975, ch. 450, § 1; Laws, 1976, ch. 371, § 1; Laws, 1977, ch. 343, § 1; Laws, 1978, ch. 405, § 1; Laws, 1979, ch. 324; Laws, 1984, ch. 308; Laws, 1988, ch. 499; Laws, 1989, ch. 524, § 23; Laws, 1995, ch. 548, § 2, eff from and after passage (approved April 6, 1995).

Editor's Note — Laws of 1989, ch. 524, § 36, provides:

"SECTION 36. The repeal or amendment of this act shall not reduce the terms of any tax reduction, special tax incentive or financial assistance agreed upon pursuant to official action by the Department of Economic Development, the State Tax Commission or other appropriate agency of the state or political subdivision thereof prior to the effective date of such repeal or amendment."

Cross References — Power of committee to determine amount of guaranty fee to be paid, subject to limitations of this section, see § 57-10-111.

Reduction of maximum liability limit of subsection (3) of this section in case of loan to Department of Economic and Community Development, see § 57-10-111.

§ 57-10-117. Supplementary security requirement for corporate borrower.

If there is a corporate borrower, the committee shall require the personal guarantee or endorsement of any principal or entity owning at least twenty percent (20%) of the corporation that is borrowing money from any lender under the provisions of this article, and the committee may also require any other guarantees it deems appropriate.

SOURCES: Codes, 1942, § 8940-139; Laws, 1972, ch. 441, § 9; Laws, 1995, ch. 548, § 3, eff from and after passage (approved April 6, 1995).

§ 57-10-119. Advancement of loan in installments.

If the loan is approved and the lender so desires, the loan, where feasible, may be advanced in installments under such rules and regulations as the committee may establish.

SOURCES: Codes, 1942, § 8940-140; Laws, 1972, ch. 441, § 10, eff from and after July 1, 1972.

§ 57-10-121. Proceedings by lender upon default on loan; assignment of unsatisfied judgment to state.

If the borrower defaults in the payment of any loan or any installments thereof, fails to follow his plan and applies any installment or installments of his loan to purposes other than those in his plan as certified by the committee, violates any of the covenants and conditions contained in the instrument securing the loan, or fails to comply with any other provision of this article, the lender shall proceed to collect the entire amount due under the loan.

In the event the lender proceeds to collect the loan, he shall be required to follow the procedures as established by the committee and shall not have a claim against either the guaranty fee fund or the small businessman's loan fund in the state treasury unless or until he has first exhausted his legal rights and remedies in aid of the collection of the loan which include, but are not limited to, his rights under the following: (a) promissory note or notes and signers or endorsers thereon; (b) deeds of trust and mortgages; (c) security agreements; and (d) any set-offs or counterclaims which include the right to foreclose the deeds of trust or mortgages and to sell, or cause to be sold, the property secured thereby and obtain a judgment or decree for any balance remaining due on the loan after such foreclosures and sale of the property given as security.

When the lender has obtained a judgment or decree against the borrower for any deficiency in the amount of the principal of the loan and interest not realized in the sale of the mortgaged property or otherwise, the lender must have execution issued on any such judgment or decree. If the judgment is not satisfied following execution, the lender shall then assign the judgment or decree to the State of Mississippi, using such form of assignment as may be prescribed by regulation promulgated by the committee, before either of the two (2) said funds in the state treasury may be liable in anywise for the benefit of the lender; however, the committee may determine that it is economically or legally infeasible for the lender to obtain a judgment or decree against the borrower, such determination and the reasons therefor to be reflected in the minutes of the committee. Upon the making of such a determination, the committee will succeed to whatever rights the lender may possess in place of a judgment or decree.

SOURCES: Codes, 1942, § 8940-141; Laws, 1972, ch. 441, § 11; Laws, 1981, ch. 417, § 1, eff from and after passage (approved March 25, 1981).

Cross References — Filing claim with manager of small businessman's loan division after requirements of this section have been met, see § 57-10-123.

§ 57-10-123. Filing of claim for payment of loan from state funds.

If the requirements appearing heretofore in Section 57-10-121 have been met by the lender and any sum of money remains due on the principal of the loan, the lender must file with the manager, on the form prescribed by the committee, the lender's claim for the amount of principal remaining due and outstanding under the loan. The claim shall be accompanied by papers showing that the lender has exhausted his legal rights and remedies in an effort to collect the loan, or that such requirement was waived by the committee, and must include an assignment of the judgment from the lender to the State of Mississippi, or an assignment of rights that the lender may possess in the event requirement of judgment has been waived. In the event that the borrower has declared bankruptcy, then the lender must submit a final order of the bankruptcy court in that cause or such other documents that prove to the satisfaction of the committee that the lender has first exhausted his legal rights and remedies in aid of his collection of the loan. The committee shall review these papers and the claim by the lender and if the committee is satisfied that the same are in due form and meet the requirements under this article, the full committee shall allow the claim and issue its requisition according to law to the state auditor against the guaranty fee fund in the State Treasury for the balance of the principal under the loan. The state auditor shall, after determination of the legal validity of the claim, issue a warrant therefor which shall be honored by the State Treasurer by payment out of said guaranty fee fund in the State Treasury.

If the balance remaining in the guaranty fee fund of the state treasury is insufficient to pay the amount of the principal of the loan remaining due, as shown by the written certificate of the State Treasurer to the manager, then the committee shall issue its requisition according to law, for the amount of the principal remaining due under the loan against the small businessman's loan fund on which the state auditor shall issue his warrant, which shall be honored by the State Treasurer to the limit of the funds allowable in the small businessman's loan fund.

SOURCES: Codes, 1942, § 8940-142; Laws, 1972, ch. 441, § 12; Laws, 1975, ch. 355; Laws, 1981, ch. 417, § 2, eff from and after passage (approved March 25, 1981).

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

§ 57-10-125. Collection of debt to state.

(1) If either the guaranty fee fund or the small businessman's loan fund becomes liable for any principal due under any loan and any payment is made from either fund to the lender in payment of the balance of the principal remaining due under such loan, the amount thus paid shall become a debt due the State of Mississippi in favor of the fund from which said balance for the principal of the loan was paid, or prorate with the balance of the principal that was paid from the guaranty fee fund and the small businessman's loan fund, which debt shall bear interest at the legal rate. It shall be the duty of the attorney, selected pursuant to subsection (2) of this section, to collect said debt with interest and the attorney shall also collect the balance of the loan, representing interest due the lender over and above the principal which will likewise bear interest at the legal rate after the judgment is obtained. The committee may authorize the attorney to settle and compromise any debt due under the provisions of this section.

(2) In order to effect a collection pursuant to subsection (1) of this section, the committee is authorized and empowered, subject to the approval of the attorney general, to hire an attorney and compensate him on either a fixed or contingent fee basis.

SOURCES: Codes, 1942, § 8940-143; Laws, 1972, ch. 441, § 13; Laws, 1979, ch. 366, eff from and after passage (approved March 15, 1979).

Cross References — County attorneys generally, see §§ 19-23-1 et seq.

District attorneys generally, see §§ 25-31-1 et seq.

§ 57-10-127. Distribution of collections by state.

Methods of distribution of all of the collections made by the district attorney or county attorney, where either or both of the funds in the state treasury have become liable for the principal due under any such loan and payment of the remaining balance due on the principal of the loan have been paid from either the guaranty fee fund or small businessman's loan fund, shall be as follows: (a) first, the amount of the principal of the loan which has been paid out of either the guaranty fee fund or the small businessman's loan fund shall be deposited to the fund from which it was withdrawn, or on a pro rata basis; (b) next, the interest due the lender on the loan unpaid up to and including the date of the assignment of the judgment from the lender to the State of Mississippi shall be paid to the lender; (c) then, the remainder of the proceeds, if any, shall be applied to the payment of interest to the guaranty fee fund or small businessman's loan fund, at the legal rate from the date that said fund was called upon to indemnify the lender.

SOURCES: Codes, 1942, § 8940-145; Laws, 1972, ch. 441, § 15, eff from and after July 1, 1972.

§ 57-10-129. Extent of liability of state funds.

The extent of the liability of either the guaranty fee fund or the small businessman's loan fund to the lender shall be seventy-five percent (75%) of the principal remaining due and unpaid after the lender has fully exhausted all remedies for recovery as provided herein, and neither of these funds shall be liable for interest which the borrower owes the lender under any such loan.

SOURCES: Codes, 1942, § 8940-144; Laws, 1972, ch. 441, § 14, eff from and after July 1, 1972.

§ 57-10-131. Investment of moneys in state funds.

The small businessman's loan fund and at least three-fourths (¾) of the guaranty fee fund shall be invested in interest-bearing notes or savings accounts for the highest possible yield as determined by the committee. However, not more than ten percent (10%) of the combined total of the two (2) funds shall be invested in interest-bearing notes or savings accounts of the banks from which the two (2) executive bank officers are chosen to be members of the small businessman's loan committee according to Section 57-10-107.

SOURCES: Codes, 1942, § 8940-146; Laws, 1972, ch. 441, § 16, eff from and after July 1, 1972.

Editor's Note — Section 57-10-107 referred to in this section which provided for a small businessman's loan committee, its membership, per diem and expenses, was repealed by Laws, 1983, ch. 434, § 15, eff from and after March 30, 1983.

§ 57-10-133. Acceptance of federal and private grant funds.

The committee is hereby authorized and empowered to accept federal and private grant funds and to use same for all purposes. The committee may use any such federal or private grant funds to establish a supplemental loan guaranty fund with the state treasury and may make additional loan guaranties on the basis of such fund; provided that the aggregate amount of such additional loan guaranties shall not at any time exceed five (5) times the amount on deposit in such supplemental loan guaranty fund; provided further, that the aggregate of the liability for such supplemental loan guaranty fund and the liability authorized by Section 57-10-115(3) shall not exceed seventeen million five hundred thousand dollars ($17,500,000.00) at any one (1) time.

SOURCES: Codes, 1942, § 8940-147; Laws, 1972, ch. 441, § 17; Laws, 1973, ch. 468, § 2; Laws, 1974, ch. 552, § 2; Laws, 1975, ch. 450, § 2; Laws, 1976, ch. 371, § 2; Laws, 1977, ch. 343, § 2; Laws, 1978, ch. 405, § 2, eff from and after July 1, 1978.

§ 57-10-135. Liability of state and subdivisions for obligations and guarantees assumed by state funds.

Obligations and guarantees assumed by the small businessman's loan fund and the guaranty fee fund under the provisions of the guaranty program shall not be in any way an obligation, loan, debt or liability of the State of Mississippi or of any political subdivision thereof other than the small businessman's loan fund and the guaranty fee fund. They shall not create or constitute any obligation, liability or indebtedness of the state or of any political subdivision, or be or constitute a pledge of the faith and credit of the state or of any political subdivision, and all indebtedness or obligations shall be payable solely from revenues or funds available for their payment as authorized herein.

SOURCES: Codes, 1942, § 8940-148; Laws, 1972, ch. 441, § 18, eff from and after July 1, 1972.

§ 57-10-137. Transfer of moneys to general fund upon termination of program.

If the program provided by this article is terminated or discontinued for any reason in the future, all monies in the guaranty fee fund and small businessman's loan fund in the state treasury shall, after payment of all outstanding indebtedness, be transferred to the general fund.

SOURCES: Codes, 1942, § 8940-149; Laws, 1972, ch. 441, § 19, eff from and after July 1, 1972.

ARTICLE 5.

COMPREHENSIVE SMALL BUSINESS ACT OF 1983.

SEC.
57-10-151. Short title.
57-10-153. Legislative intent.
57-10-155. Definitions.
57-10-157. Composition of Small Business Consortium.
57-10-159. Small Business Consortium Board created; composition; compensation and expenses of members; meetings.
57-10-161. General duties and responsibilities of consortium board; review of certain assistance proposals.
57-10-163. Coordinator of small business consortium.
57-10-165. Small Business Clearinghouse.
57-10-167. Establishment of Certified Development Company of Mississippi, Inc.; appointment, terms of office and compensation of members; executive director; officers and board of directors; redesignation as Mississippi Business Finance Corporation.
57-10-169. Abolition of Mississippi Economic Development Corporation and small businessman's loan committee; transfer of powers, duties and authority.

§ 57-10-151. Short title.

This article shall be known and may be cited as "The Comprehensive Small Business Act of 1983."

SOURCES: Laws, 1983, ch. 434, § 1, eff from and after passage (approved March 30, 1983).

Editor's Note — Chapter 434 of Laws, 1983, effective from and after March 10, 1983, enacted the Comprehensive Small Business Act of 1983, primarily codified as §§ 57-10-151 et seq., Mississippi Code of 1972. Chapter 434 also amended §§ 57-10-3, 57-10-105 and 57-10-111 and repealed §§ 57-10-5, 57-10-7, 57-10-11, 57-10-13, 57-10-15 and 57-10-107.

Cross References — Restriction on exemption from ad valorem taxes levied for school district purposes, see § 57-3-33.

Small Businessman's Loan Assistance Law, see §§ 57-10-101 et seq.

Mississippi Small Business Financing Act, see §§ 57-10-201 et seq.

§ 57-10-153. Legislative intent.

In order to stimulate the expansion of existing small businesses and to encourage the formation of new economically sound small business enterprises in this state, it is the intent of the legislature to create a consortium of state agencies and educational institutions which provide services to the state's non-agricultural small businesses for the purpose of coordinating delivery and avoiding duplication of such services to the small business community.

SOURCES: Laws, 1983, ch. 434, § 2, eff from and after passage (approved March 30, 1983).

§ 57-10-155. Definitions.

Whenever the following terms are used herein they shall have the following meanings, unless the context clearly indicates otherwise:

(a) "Small business" means a non-agricultural business as defined by the small business administration's most current declaration of small business size standards.

(b) "Non-agricultural business" means businesses classified by the Standard Industrial Classification Code (SIC code) as Major Groups 10 through 79. Agricultural production and services, forestry and fisheries (Major Groups 01 through 09) are excluded from the provisions of this article.

(c) "Consortium" means the state agencies or educational institutions which provide services to small businesses and are so designated by this article.

(d) "Consortium board" means the governing body of the consortium formed to set policy and ensure that there is a coordinated program of assistance to the state's small businesses.

(e) "Coordinator" means a staff member of the consortium designated by the consortium board to coordinate delivery of services to small businesses.

(f) "Certified Development Company of Mississippi, Inc." means the corporation organized pursuant to Section 57-10-167 as a not-for-profit and non-share public corporation organized and chartered for the purpose of furthering the economic development of the state.

SOURCES: Laws, 1983, ch. 434, § 3, eff from and after passage (approved March 30, 1983).

Editor's Note — By the terms of § 57-10-167, the Certified Development Company of Mississippi, Inc. shall be known as the Mississippi Business Finance Corporation from and after July 1, 1989.

Cross References — Composition of small business consortium, see § 57-10-157.

Composition of small business consortium board, see § 57-10-159.

Coordinator of small business consortium, see § 57-10-163.

Use of small businesses under the Mississippi Superconducting Super Collider Act, see § 57-67-37.

Small business definition under this section as applicable to Mississippi Major Economic Impact Act, see § 57-75-21.

§ 57-10-157. Composition of Small Business Consortium.

Member agencies and institutions which are included in the Small Business Consortium are as follows:

(a) Department of Economic Development;

(b) Governor's Office of Federal-State Programs;

(c) All state-supported universities; and

(d) All public junior colleges.

Other agencies or institutions serving small business may be added or deleted from the consortium by a two-thirds (⅔) vote of the consortium board.

SOURCES: Laws, 1983, ch. 434, § 4; Laws, 1988, ch. 518, § 47, eff from and after July 1, 1988.

Editor's Note — Section 7-1-251 provides that wherever the term "Office of the Governor, Federal-State Programs" appears in any law the same shall mean the Department of Finance and Administration.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Federal-State programs, see §§ 7-1-251 et seq.

§ 57-10-159. Small Business Consortium Board created; composition; compensation and expenses of members; meetings.

There is hereby created the Small Business Consortium Board which shall be the policymaking body for the state's program of services to nonagricultural small businesses. The consortium board will be composed of the following seven (7) members: The Executive Director of the Department of Economic and Community Development; the Director of the University Research Center; the Director of the Department of Finance and Administration; the Director of the Enterprise Development Division of the Department of Economic and Community Development; the president of a public junior college appointed by the Mississippi Junior College Association; the President of the Certified Development Company of Mississippi, Inc.; and the District Director of the Small Business Administration.

Members of the consortium board shall receive no compensation for their services as members of the board. All consortium board members who are employees of the state or any entity thereof may receive reimbursement for actual and necessary traveling and subsistence expenses incurred, such reimbursement to be in the manner provided for in Section 25-3-41.

A majority of the consortium board shall constitute a quorum, but less than a quorum may adjourn the meeting from time to time. The consortium board shall hold its meetings on at least a semiannual basis by call of the coordinator or a majority of the consortium board, and such meetings may be held at any place within the State of Mississippi acceptable to a majority of the board.

SOURCES: Laws, 1983, ch. 434, § 5; Laws, 1988, ch. 518, § 48; Laws, 1990, ch. 502, § 7, eff from and after July 1, 1990.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community

Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

By the terms of § 57-10-167, the Certified Development Company of Mississippi, Inc. shall be known as the Mississippi Business Finance Corporation from and after July 1, 1989.

Cross References — University Research Center, see §§ 37-141-1 et seq.

Executive director of department of economic and community development, see § 57-1-5.

Mississippi Business Finance Corporation, § 57-10-167.

§ 57-10-161. General duties and responsibilities of consortium board; review of certain assistance proposals.

The duties and responsibilities of the consortium board shall be to set policy regarding delivery, and to implement delivery, of services to the state's non-agricultural small businesses, which services are provided by the consortium members or other state-supported agencies or institutions.

In order to ensure that existing delivery systems for services to small businesses are utilized whenever possible and to avoid duplication of services, any proposals for programs, grants or funding intended to provide services to small business in the general population or targeted areas of the state which are under consideration by state agencies or institutions, not members of the consortium, shall be reviewed by the consortium board. The board shall determine whether to include a program within one of the member agencies or delivery systems; include the agency or institution within the consortium; or disapprove the proposal. Excluded from this review process shall be any site-specific studies or fee-paid services provided by faculty members within the state university system and fee-paid services to small businesses provided by other state agencies or departments within the state university system.

SOURCES: Laws, 1983, ch. 434, § 6, eff from and after passage (approved March 30, 1983).

§ 57-10-163. Coordinator of small business consortium.

(1) It shall be the responsibility of the coordinator of the small business consortium to preside at meetings of the consortium board and to bring to the attention of the board the changing and evolving problems and needs of Mississippi small businesses; the need for addition, modification, or deletion of particular services; the existence of duplication of effort; the need for coordination; and any other situations relative to the effective delivery of state-supported services to small businesses of the state.

(2) The coordinator shall be required to maintain current descriptions of and familiarity with the technical service programs provided by the consortium members to small businesses. These programs include but are not limited to: providing direct counseling assistance to business people in the areas of management, marketing, finance, and production as it relates to establishing a new or operating an existing small business in the state; providing business

data and information necessary to make informed management decisions; and conducting training seminars and workshops on topics vital to the small business community of the state. The coordinator shall advise the consortium board of the need for addition, modification or deletion of particular services; the existence of duplication of effort; and the need for coordination. It shall be the responsibility of the consortium board to implement such changes in technical assistance programs as it deems necessary to comply with the intent of this article.

(3) The coordinator shall be selected by a two-thirds (⅔) majority vote of the consortium board and shall serve at the will and pleasure of the consortium board. The coordinator shall be a full-time staff member of one of the consortium agencies or institutions or of the small business administration, and shall be located in Jackson, Mississippi. The coordinator may from time to time call special meetings of the consortium board as needed.

SOURCES: Laws, 1983, ch. 434, § 7, eff from and after passage (approved March 30, 1983).

§ 57-10-165. Small Business Clearinghouse.

There is hereby created a unit within the consortium to be known as the Small Business Clearinghouse which shall provide a single contact point for the state's small businesses seeking assistance, make them aware of programs available to them, and direct them to the appropriate delivering organization.

The Small Business Clearinghouse shall be part of the Mississippi Department of Economic Development, and the Executive Director of the Mississippi Department of Economic Development shall be authorized to employ a full-time staff member and to expend such funds as necessary to effectively implement the duties assigned this unit.

In order to ensure that the general small business public is informed of this single contact point for gaining access to state-supported services, the Small Business Clearinghouse shall establish and maintain an outreach program.

SOURCES: Laws, 1983, ch. 434, § 8; Laws, 1988, ch. 518, § 49, eff from and after July 1, 1988.

Editor's Note — Section 57-1-2 provides that executive director of the Mississippi Department of Economic Development shall mean the executive officer of the Mississippi Department of Economic and Community Development.

Section 57-1-54 provides that the term "Mississippi Department of Economic Development" appears in any law the same shall mean the Department of Economic and Community Development.

Cross References — Department of Economic and Community Development, see §§ 57-1-53 et seq.

§ 57-10-167. Establishment of Certified Development Company of Mississippi, Inc.; appointment, terms of office and compensation of members; executive director; officers and board of directors; redesignation as Mississippi Business Finance Corporation.

There is hereby established the Certified Development Company of Mississippi, a public corporation, which shall be an incorporated certified development company pursuant to Section 503 of the Small Business Investment Act of 1958, as amended.

The Certified Development Company of Mississippi, Inc., hereinafter referred to as the "committee" unless the context clearly indicates otherwise, shall be composed of twenty-five (25) members as follows:

(a) The State Treasurer; the Executive Director of the University Research Center or his designee; the Executive Director of the Mississippi Development Authority; the Executive Director of the Small Business Development Center; six (6) persons associated with small business to be appointed by the Governor, one (1) for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, one (1) for a term of four (4) years, one (1) for a term of five (5) years and one (1) for a term of six (6) years; three (3) persons associated with small business to be appointed by the Lieutenant Governor, one (1) for a term of one (1) year, one (1) for a term of two (2) years and one (1) for a term of three (3) years; five (5) persons involved in banking or small business to be appointed by the Governor, one (1) for a term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, one (1) for a term of four (4) years and one (1) for a term of five (5) years; and two (2) persons involved in banking or small business to be appointed by the Lieutenant Governor, one (1) for a term of one (1) year and one (1) for a term of two (2) years. The members described above and serving on the committee on June 30, 1984, shall continue to serve on the committee until the expiration of their terms.

(b) For terms to begin on July 1, 1984, the Governor shall appoint one (1) person associated with small business for a term of six (6) years; the Secretary of State shall appoint one (1) person associated with small business for a term of one (1) year; the Attorney General shall appoint one (1) person involved in banking or small business for a term of six (6) years; and the State Treasurer shall appoint two (2) persons, one (1) for a term of one (1) year and one (1) for a term of two (2) years, and after the expiration of the term of the person appointed hereinabove by the Attorney General, that vacancy shall be filled thereafter by a person involved in banking or small business appointed by the State Treasurer for a term of six (6) years.

All appointments after the initial appointment shall be for terms of six (6) years each. All such appointments will be subject to the approval of the Senate. An appointment to fill a vacancy existing for any reason other than the expiration of a term shall be for the balance of the unexpired term. Members serving by reason of their ex officio designation shall continue to serve as long as they occupy the position which entitles them to membership.

Members who are officers or employees of the state shall receive no compensation for their services, and other committee members shall receive a per diem as provided in Section 25-3-69, Mississippi Code of 1972. All members shall receive reimbursement for actual traveling and subsistence expenses incurred in the performance of their duties under this article, such reimbursement to be as provided in Section 25-3-41, Mississippi Code of 1972.

The Certified Development Company of Mississippi, Inc., shall have an executive director who shall be appointed by the board of directors.

The Certified Development Company of Mississippi, Inc., shall elect from among its membership a nine-member board of directors, a majority of whom shall be a quorum, a president and vice president and may appoint a secretary and a treasurer.

From and after July 1, 1989, the Certified Development Company of Mississippi, Inc., shall be known as the Mississippi Business Finance Corporation, and wherever the term "Certified Development Company of Mississippi, Inc.," appears in the laws of this state it shall mean the Mississippi Business Finance Corporation.

SOURCES: Laws, 1983, ch. 434, § 9; Laws, 1984, ch. 488, § 326; Laws, 1985, ch. 434; Laws, 1986, ch. 375; Laws, 1988, ch. 518, § 50; Laws, 1989, ch. 524, § 24; Laws, 2001, ch. 337, § 32, eff from and after passage (approved Mar. 6, 2001.)

Editor's Note — Laws of 1989, ch. 524, § 36, provides:

'SECTION 36. The repeal or amendment of this act shall not reduce the terms of any tax reduction, special tax incentive or financial assistance agreed upon pursuant to official action by the Department of Economic Development, the State Tax Commission or other appropriate agency of the state or political subdivision thereof prior to the effective date of such repeal or amendment.'

Cross References — University Research Center, see §§ 37-141-1 et seq.

Transfer of powers, duties and authority from Mississippi Development Corporation and small businessmen's loan committee to corporation, see §§ 57-10-3, 57-10-169.

Not-for-profit and non-share status of corporation, see § 57-10-155.

Membership of president of corporation or small business consortium board, see § 57-10-159.

Duty to submit annual report, see § 57-10-259.

Membership on a committee authorized by the Mississippi Export Trade Development Act, see §§ 57-57-5 et seq.

Federal Aspects — Section 503 of the Small Business Investment Act of 1958, referred to in this section, is codified as 15 USCS § 697.

RESEARCH REFERENCES

ALR. Construction and effect of statutory provisions as to small business investment companies (15 USCS §§ 681-687h). 7 A.L.R. Fed. 224.

§ 57-10-169. Abolition of Mississippi Economic Development Corporation and small businessman's loan committee; transfer of powers, duties and authority.

From and after July 1, 1983, the Mississippi Economic Development Corporation and the small businessman's loan committee shall be abolished and the powers, duties and authority granted the Mississippi Economic Development Corporation and the small businessman's loan committee pursuant to Articles 1 and 3, Chapter 10, Title 57, Mississippi Code of 1972, shall at that time be transferred to the Certified Development Company of Mississippi.

SOURCES: Laws, 1983, ch. 434, § 10, eff from and after passage (approved March 30, 1983).

Editor's Note — By the terms of § 57-10-167, the Certified Development Company of Mississippi, Inc. shall be known as the Mississippi Business Finance Corporation from and after July 1, 1989.

Cross References — Small businessman's loan assistance, see §§ 57-10-101 et seq.

Article 7.

Mississippi Small Business Financing Act.

Sec.

57-10-201. Short title.
57-10-203. Legislative findings and declarations.
57-10-205. Definitions.
57-10-207. General powers of board of directors.
57-10-209. Issuance and refunding of bonds; methods for financing projects.
57-10-211. Participation with lenders in making or purchasing loans.
57-10-213. Issuance of bonds to finance projects of eligible businesses.
57-10-215. Insurance or guaranty fund.
57-10-217. Security for bonds or instruments.
57-10-219. Premiums and fees for financial assistance.
57-10-221. Applicability of debt limitation or restriction.
57-10-223. Procedure for public hearings and approval.
57-10-225. Loans to lenders.
57-10-227. Investment in, purchase and assignment of loans made by lenders.
57-10-229. Promulgation of regulations relating to §§ 57-10-225 and 57-10-227.
57-10-231. Payment of bonds; additional security.
57-10-233. Liability of state or subdivisions on bonds; personal liability of directors; statement required on face of bond.
57-10-235. Term, interest rate, denominations, etc. of bonds; use of proceeds; rules and regulations.
57-10-237. Miscellaneous provisions of resolution authorizing issuance of bonds.
57-10-239. Effect of pledge; recording of resolution or other instruments.
57-10-241. Cancellation and redemption of bonds.
57-10-243. Trust indenture.
57-10-245. Signatures on bonds.
57-10-247. Establishment of funds and accounts.
57-10-249. Contracts with bondholders.
57-10-251. Effect of future amendments to article.

57-10-253. Expenses.
57-10-255. Tax-exempt status of company; state's right to remaining assets upon dissolution; mortgages, leases, etc., tax-exempt; time limit on ad valorem tax exemption; new ad valorem tax exemptions where tax levied for school district purposes.
57-10-257. Investment in bonds; bonds as security for deposits.
57-10-259. Annual report.
57-10-261. Construction of article.

§ 57-10-201. Short title.

This article shall be known and may be cited as the "Mississippi Business Financing Act".

SOURCES: Laws, 1985, ch. 450, § 1; Laws, 1990 Ex Sess, ch. 71, § 5, eff from and after passage (approved June 30, 1990).

Cross References — Restriction on exemption from ad valorem taxes levied for school district purposes, see § 57-3-33.

Industrial development fund, see §§ 57-4-1 et seq.

Small Businessman's Loan Assistance Law of 1972, see §§ 57-10-101 et seq.

Comprehensive Small Business Act of 1983, see §§ 57-10-151 et seq.

Effect of amendments to this article upon outstanding obligations of company, see § 57-10-251.

Construction of article and severability, see § 57-10-261.

Mississippi Business Finance Corporation Beginning Farmer Program, see § 57-10-301 et seq.

Use of powers granted in this article to provide financial assistance to beginning farmers, see § 57-10-307.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 107, 108.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations § 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-203. Legislative findings and declarations.

The Legislature finds and determines that there exists in the state a need to assist business in the state in obtaining financing for new business or in the expansion of existing business in order to promote and develop industrial development and to further the long-term economic development of the state through the improvement of its tax base and the promotion of employment. The Legislature finds and determines that it is necessary to provide financial assistance to business in the state by providing loans, guarantees, insurance and other assistance to business, thereby encouraging the investment of private capital in business in the state. To assist in such matters is essential to the industrial development of the state. In making these determinations, the Legislature has considered and affirmatively expresses its policy to assist businesses, acknowledging that this determination has and will affect competition.

It is hereby further declared that all of the foregoing are public purposes and will serve a public purpose in that they will promote industry, develop trade and increase employment opportunities for the benefit of the inhabitants of the state, either through the increase of commerce or through the promotion of safety, health, welfare, convenience or prosperity; and that the necessity of enacting the provisions herein set forth is in the public interest and is hereby so declared as a matter of express legislative determination.

SOURCES: Laws, 1985, ch. 450, § 2; Laws, 1990 Ex Sess, ch. 71, § 6, eff from and after passage (approved June 30, 1990).

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

§ 57-10-205. Definitions.

As used in this article, unless the context otherwise requires:

"Bonds" shall mean any bonds, refunding bonds, notes, debentures, interim certificates or any bond, grant, revenue anticipation notes or any other evidences of indebtedness of the company, whether in temporary or definitive form and whether or not exempt from federal taxation.

"Company" shall mean the Mississippi Business Finance Corporation, formerly the Certified Development Company of Mississippi, Inc., created in Section 57-10-167, Mississippi Code of 1972.

"Cost," as applied to the eligible business, shall mean and shall include, without limitation because of enumeration, the cost of construction; the cost of acquisition of all lands, structures, rights-of-way, franchises, easements and other property rights and interests; the cost of demolishing, removing, rehabilitating or relocating any buildings or structures on lands acquired, including the cost of acquiring any such lands to which such buildings or structures may be moved, rehabilitated or relocated; the cost of all labor, materials, machinery and equipment, financing charges, letter of credit or other credit enhancement fees, insurance premiums, interest on all bonds prior to and during construction or acquisition and for a period not exceeding one (1) year after completion of such construction or acquisition; cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, commissions, guaranty fees, other expenses necessary or incident to determining the feasibility or practicality of constructing, financing or operating a project of an eligible business; administrative expenses, provisions for working capital, reserves for interest and for extensions, enlargements, additions, improvements and replacements, and such other expenses as may be necessary or incidental to the construction or acquisition of a project of an eligible business or the financing of such construction, acquisition or expansion and the placing of a project of an eligible business in operation. Any obligation or expense incurred by the state or any agency thereof, with the approval of the company, for studies, surveys, borings, preparation of plans and specifications or other work or materials in connection with the construction or acquisition of a project of an eligible business may be regarded as a part of the cost of a project of an eligible business and may be reimbursed to the state or any agency thereof out of the proceeds of the bonds issued therefor. The construction of railroad spur tracks shall be a cost of an eligible business for which financial assistance is available under this article; and such assistance may be provided to an existing eligible business whether or not the construction of such spur tracks is related to an expansion of such eligible business.

"Eligible business" shall mean any person engaged in one or more business enterprises in the state who meets requirements the company shall determine from time to time if the company finds and determines such person is in need of its assistance.

"Indenture" shall mean any trust agreement, deed of trust, mortgage or other security agreement under which bonds authorized pursuant to this article shall be issued or secured.

"Lender" shall mean any federally or state chartered bank, federal land bank, production credit association, bank for cooperatives, state or federally chartered savings and loan association, building and loan association, small business investment company or any other financial institution qualified within the state to originate and service loans, including but not limited to insurance companies, credit unions, investment banking or brokerage companies and mortgage loan companies.

"Loan" shall mean any lease, loan agreement or sales contract as hereinafter defined:

(a) "Lease" shall mean any lease containing an option to purchase the project or projects of the eligible business being financed for a nominal sum upon payment in full, or provision thereof, of all bonds issued in connection with the eligible business and all interest thereon and principal of and premium, if any, thereon and all other expenses in connection therewith.

(b) "Loan agreement" shall mean an agreement providing for a loan of proceeds from the sale and issuance of bonds by the company or by a lender with which the company has contracted to loan such proceeds to one or more contracting parties to be used to pay the cost of one or more projects of an eligible business and providing for the repayment of such loan including but not limited to all interest thereon, and principal of and premium, if any, thereon and all other expenses in connection therewith, by such contracting party or parties and which may provide for such loans to be secured or evidenced by one or more notes, debentures, bonds or other secured or unsecured debt obligations of such contracting party or parties, delivered to the company or to a trustee under an indenture pursuant to which the bonds were issued.

(c) "Sales contract" shall mean a contract providing for the sale of one or more projects of an eligible business to one or more contracting parties and includes but is not limited to a contract providing for payment of the purchase price, including but not limited to all interest thereon, and principal of and premium, if any, thereon and all other expenses in connection therewith, in one or more installments. If the sales contract permits title to a project being sold to an eligible business to pass to such contracting party or parties prior to payment in full of the entire purchase price, it also shall provide for such contracting party or parties to deliver to the company, or to the trustee under the indenture pursuant to which the bonds were issued, one or more notes, debentures, bonds or other secured or unsecured debt obligations of such contracting party or parties providing for timely payments of the purchase price thereof.

"Municipality" shall mean any county or incorporated municipality in the state.

"Person" shall mean a natural person, partnership, association, corporation, business trust or other business entity.

"Revenue Code" shall mean the Internal Revenue Code of 1986, as amended.

"Revenues" shall mean any and all fees, rates, rentals, profits and receipts collected by, payable to, or otherwise derived by, the company, and all other moneys and income of whatsoever kind or character collected by, payable to, or otherwise derived by, the company in connection with loans to any eligible business in furtherance of the purposes of this article.

"Business enterprise" shall mean (a) any industry for the manufacturing, processing, assembling, storing, warehousing, servicing, distributing or selling of any products of agriculture, mining or industry or professional services; (b) any commercial enterprise; (c) enterprises for research and development, including but not limited to scientific laboratories; (d) any conference center, or any final destination or resort hotel having a minimum of one hundred fifty (150) rooms, or any combination of the foregoing; (e) any theme park or movie industry production studio, or any combination thereof, which would employ a minimum of two hundred (200) net full-time employees; or (f) such other businesses as will be in furtherance of the public purposes of this article as determined by the company.

"State" shall mean the State of Mississippi.

"Umbrella bonds" shall mean the bonds issued pursuant to Section 57-10-213 of this article.

SOURCES: Laws, 1985, ch. 450, § 3; Laws, 1986, ch. 355; Laws, 1987, ch. 464, § 1; Laws, 1990 Ex Sess, ch. 71, § 7; Laws, 1991, ch. 358 § 1, eff from and after passage (approved March 15, 1991).

Cross References — Time for making request for exemption from ad valorem taxation for projects financed with bonds issued under §§ 57-10-205 et seq., see § 27-31-101.

Umbrella bonds, see § 57-10-213.

Federal Aspects — Internal Revenue Code of 1986, 26 USCS §§ 1 et seq.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-207. General powers of board of directors.

In addition to those powers granted elsewhere by law, the board of directors of the company is hereby granted all powers necessary or appropriate to carry out and effectuate the purposes of this article, including, but not limited to, the following powers to:

(a) Borrow money and issue bonds as provided by this article;

(b) Procure insurance or guarantees from any public or private entities, including any department, agency or instrumentality of the United States of America, or, subject to the provisions of and to the extent moneys are available in the fund created by Section 57-10-215, insure or guarantee the payment of any bonds issued by the company, including the power to pay premiums on any such insurance or guarantees or other instruments of indebtedness;

(c) Receive and accept from any source aid or contributions of money, property, labor or other things of value to be held, used and applied to carry out the purposes of this article (subject, however, to any conditions upon which grants or contributions are made) including, but not limited to gifts or grants from any department, agency or instrumentality of the United States of America;

(d) Enter into agreements with any department, agency or instrumentality of the United States of America or of the state and with lenders and enter into loans with contracting parties for the purpose of planning, regulating and providing for the financing or assisting in the financing of any eligible business or any project thereof;

(e) Enter into contracts or agreements with lenders for the servicing and/or processing of loans;

(f) Provide technical assistance to local industrial development authorities and to profit and nonprofit entities in the development or operation by, or assistance to, persons engaged in business enterprises and distribute data and information concerning the encouragement and improvement of business enterprises in the state;

(g) To the extent permitted in the proceedings pursuant to which the bonds of the company are issued, consent to any modification with respect to the rate of interest, time for, and payment of, any installment of principal or interest, or any other term of any contract, loan, sales contract, lease, indenture or agreement of any kind to which the company is a party;

(h) To the extent permitted in the proceedings pursuant to which the bonds of the company are issued, enter into contracts with any lender containing provisions authorizing the lender to reduce the charges or fees, exclusive of loan payments, to persons unable to pay the regular schedule thereof when, by reason of other income or payment by any department, agency or instrumentality of the United States of America or the state, the reduction can be made without jeopardizing the economic stability of the eligible business being financed;

(i) Allocate any of its property to the insurance or guaranty fund established by Section 57-10-215 or to any other fund of the company, such property consisting of:

(i) Moneys appropriated by the state;

(ii) Premiums, fees and any other amounts received by the company with respect to financial assistance provided by the company;

(iii) Proceeds as designated by the company from the loan or other disposition of property held or acquired by the company;

(iv) Income from investments that were made by the company or on the behalf of the company from moneys in one or more of its funds; or

(v) Any other moneys made available to the company consistent with this article;

(j) Use any fund or funds of the company for any and all expenses to be paid by the company including, by way of example, but not by limitation: (i) any and all expenses for employment of administrative and clerical staff, legal, actuarial and other services; (ii) all costs, charges, fees and expenses of the company relating to the authorizing, preparing, printing, selling, issuing and insuring of bonds and the funding of reserves; and (iii) all expenses and costs relating to the guaranteeing, insuring or procurement of guarantees, insurance or other instruments providing credit or the enhancement of credit for the bonds;

(k) Collect fees and charges, as the company determines to be reasonable, in connection with its loans, insurance, guarantees, commitments and servicing thereof;

(*l*) Sell, at public or private sale, with or without public bidding, any obligation held by the company under this article;

(m) Invest any funds not needed for immediate disbursement, including any funds held in reserve, in any obligations or securities which may be legally purchased by political subdivisions in the state or as may be otherwise permitted by Section 57-10-251; and

(n) Take any action necessary or convenient for the exercise of the powers granted by this article or reasonably implied from them.

SOURCES: Laws, 1985, ch. 450, § 4; Laws, 1990 Ex Sess, ch. 71, § 8; Laws, 2001, ch. 337, § 33, eff from and after passage (approved Mar. 6, 2001.)

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error near the middle of (c), substituting "this article" for "this act." The Joint Committee ratified the correction at its August 5, 2008, meeting.

Cross References — Mississippi Business Finance Corporation, § 57-10-167.

Power to participate with private lenders in financing projects, see § 57-10-211.

Power to issue bonds to finance projects of small businesses, see § 57-10-213.

Insurance or guaranty fund, see § 57-10-215.

Imposition of fees for services provided by company, see § 57-10-219.

Power to make loans to private lenders for purposes of article, see § 57-10-225.

Power of company to accept assignments of loans from private lenders, see § 57-10-227.

Effect, on validity of bonds, of signatures of directors and officers who cease to have such status prior to delivery of bonds, see § 57-10-245.

Contracts with bondholders, see § 57-10-249.

Effect of future amendments to article upon previously issued bonds, see § 57-10-251.

Payment of expenses of company out of company's revenues, see § 57-10-253.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-209. Issuance and refunding of bonds; methods for financing projects.

Upon receipt of a certificate of public convenience and necessity from the Executive Director of the Mississippi Department of Economic and Community Development, the company shall have the power to borrow money and to issue from time to time its bonds to pay the cost of the projects for which such bonds have been issued, including but not limited to the power to issue from time to time bonds to renew or to pay bonds, including the interest thereon. Whenever bonds can be refunded to obtain interest rates on refunding bonds which are lower than the interest rates on the bonds to be refunded it shall have the power to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund outstanding bonds. Refunding bonds may be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded, or exchanged for the bonds to be refunded. The company may undertake the financing of the cost of a project for an eligible business from the proceeds of its bonds by one or more of the following methods: (a) entering into a lease for the facilities of the eligible business being financed; (b) selling such facilities to the eligible business under a sales contract; (c) lending the proceeds of the sale of the bonds under a loan agreement with the eligible business; (d) entering into a loan to lenders transaction in the manner described in Section 57-10-227; or (e) entering into such other transaction or transactions as the company deems appropriate to accomplish the purposes of this article.

SOURCES: Laws, 1985, ch. 450, § 5; Laws, 1988, ch. 518, § 51; Laws, 1990 Ex Sess, ch. 71, § 9, eff from and after passage (approved June 30, 1990).

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Application of debt restrictions to bonds issued under this article, see § 57-10-221.

Purchase or assignment of loans made by lenders, see § 57-10-227.

Payment of company's bonds out of revenue, see § 57-10-231.

Declaration that company's bonds are not state obligations, see § 57-10-233.

Miscellaneous provisions of company's bonds, see § 57-10-237.

Cancellation or redemption of bonds, see § 57-10-241.

Effect, on validity of bonds, of signatures of directors and officers who cease to have such status prior to delivery of bonds, see § 57-10-245.

Effect of amendments to this article upon outstanding obligations of company, see § 57-10-251.

Duty to submit annual report, see § 57-10-259.

RESEARCH REFERENCES

ALR. Power of governmental unit to issue bonds as implying power to refund them. 1 A.L.R.2d 134.

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:72.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-211. Participation with lenders in making or purchasing loans.

In addition to and not as a limitation upon the powers to issue bonds as elsewhere expressed in this article, the company may, with proceeds of an issue of its bonds, participate with lenders in making or purchasing loans to eligible businesses to be serviced by such lenders, provided that:

(a) The share of the company shall not exceed ninety percent (90%) of the total principal amount of any such loan, and such participation shall be payable with interest at the same times, but not necessarily at the same interest rate, as the share of the lender, and both shares shall be equally and ratably secured by a valid mortgage on, or security interest in, real or personal property or by any other security satisfactory to the company to secure payment of the loan; however, the company's share of any such loan may equal one hundred percent (100%) of the total principal amount of the business loan if the lender participating in the making or purchasing of such business loan by servicing the loan, purchased one hundred percent (100%) of the total amount of the bonds issued by the company in connection with or allocable to such business loan;

(b) The total principal amount of the company's share shall not exceed ninety percent (90%) of the value of the property securing the business loan, unless the amount in excess of ninety percent (90%) is:

(i) Loaned from available funds which are not proceeds received directly from the sale of the company's bonds and are not restricted under the terms of the resolution authorizing, or the indenture securing, such bonds; or

(ii) Insured or guaranteed by a federal agency or by a private insurer qualified to write such insurance in the state, insuring a percentage of any claim for loss at least equal to that percentage of the value by which the business loan exceeds ninety percent (90%) thereof;

(c) The value of the property securing the business loan is certified by the participating lender, on the basis of such appraisals, bids, purchase orders and engineers' certificates as the company may require; provided that the value of items purchased and constructed from the proceeds of the business loan shall not be deemed, for purposes of this section, to exceed the contract price in respect of purchase or construction;

(d) The company shall not disburse funds under a commitment to participate in a business loan for the construction or substantial improvement of property until the construction or improvement has been completed, unless a lender furnishes an irrevocable letter of credit or a qualified corporate surety furnishes payment and performance bonds, in either event satisfactory to the company and in an aggregate amount equal to the cost of such construction or improvement;

(e) No other indebtedness may be secured by a mortgage on, or security interest in, property securing a business loan made or purchased pursuant to this section without the prior express written authorization of the company; and

(f) The participating lender agrees to use the proceeds of the business loan to lend to eligible businesses in the state.

SOURCES: Laws, 1985, ch. 450, § 6; Laws, 1987, ch. 464, § 2; Laws, 1990, ch. 570, § 4; Laws, 1990 Ex Sess, ch. 71, § 10, eff from and after passage (approved June 30, 1990).

Editor's Note — Laws of 1990, ch. 570, § 20, effective July 1, 1990, provides as follows:

"SECTION 20. (1) Any attorney's fees paid as the result of the issuance of bonds under this act shall be in compliance with the limits on attorney's fees for bond issues as adopted by the State Bond Commission. Attorney's fees paid as the result of the issuance of bonds under this act shall be subject to negotiation but in no event shall exceed the limits established by the State Bond Commission. A detailed accounting of all expenses incurred by all persons, firms, corporations, associations or other organizations involved in such bond issues shall be submitted to the State Bond Commission within ninety (90) days after the issuance of such bonds and shall be a matter of public record.

"(2) No member of the Legislature, elected official or appointed official, or any partner or associate of any member of the Legislature, elected official or appointed official, shall derive any income from the issuance of any bonds or the disposition of any property under this act contrary to the provisions of Section 109, Mississippi Constitution of 1890, or Article 3, Chapter 4, Title 25, Mississippi Code of 1972.

"(3) In connection with the issuance and sale of bonds authorized under this act, the State Bond Commission shall select a bond attorney or attorneys who are listed in the 'Directory of Municipal Bond Dealers of the United States' and who are members in good standing of the Mississippi State Bar Association and licensed to practice law in the State of Mississippi; however, upon a finding by the commission spread on its official minutes that the public interest will best be served thereby, the commission may select any bond attorney or attorneys listed in the 'Directory of Municipal Bond Dealers of the United States'. "

Cross References — Power to issue bonds generally, see § 57-10-207.

Application of debt restrictions to bonds issued under this article, see § 57-10-221.

Loans to lenders, see § 57-10-225.

Promulgation of regulations governing loans to private lenders and assignment of loans to company, see § 57-10-229.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-213. Issuance of bonds to finance projects of eligible businesses.

In addition to, and not as a limitation upon, the powers of the company to issue bonds as elsewhere conferred in this article, and upon the receipt of a certificate of public convenience and necessity from the Executive Director of the Mississippi Department of Economic and Community Development, the company also shall have the power to issue bonds, the proceeds of which, after payment of the costs of issuance thereof, will be used to make loans to finance or refinance the projects of eligible businesses. The company shall promulgate such rules and regulations as may be necessary to carry out the purposes of this section and to provide procedures for the making of such loans and the repayment thereof.

SOURCES: Laws, 1985, ch. 450, § 7; Laws, 1987, ch. 464, § 3; Laws, 1988, ch. 518, § 52; Laws, 1990, ch. 570, § 5; Laws, 1990 Ex Sess, ch. 71, § 11, eff from and after passage (approved June 30, 1990).

Editor's Note — Laws of 1990, ch. 570, § 20, effective July 1, 1990, provides as follows:

"SECTION 20. (1) Any attorney's fees paid as the result of the issuance of bonds under this act shall be in compliance with the limits on attorney's fees for bond issues as adopted by the State Bond Commission. Attorney's fees paid as the result of the issuance of bonds under this act shall be subject to negotiation but in no event shall exceed the limits established by the State Bond Commission. A detailed accounting of all expenses incurred by all persons, firms, corporations, associations or other organizations involved in such bond issues shall be submitted to the State Bond Commission within ninety (90) days after the issuance of such bonds and shall be a matter of public record.

"(2) No member of the Legislature, elected official or appointed official, or any partner or associate of any member of the Legislature, elected official or appointed official, shall derive any income from the issuance of any bonds or the disposition of any property under this act contrary to the provisions of Section 109, Mississippi Constitution of 1890, or Article 3, Chapter 4, Title 25, Mississippi Code of 1972.

"(3) In connection with the issuance and sale of bonds authorized under this act, the State Bond Commission shall select a bond attorney or attorneys who are listed in the 'Directory of Municipal Bond Dealers of the United States' and who are members in good standing of the Mississippi State Bar Association and licensed to practice law in the State of Mississippi; however, upon a finding by the commission spread on its official minutes that the public interest will best be served thereby, the commission may select any bond attorney or attorneys listed in the 'Directory of Municipal Bond Dealers of the United States'. "

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Power to issue bonds generally, see §§ 57-10-207, 57-10-209.

Description of bonds issued under 57-10-213 as "umbrella bonds", see § 57-10-205.

Participation with private lenders in making loans to small businesses, see § 57-10-211.

Application of debt restrictions to bonds issued under this article, see § 57-10-221.

Company's payment of bonds out of revenue, see § 57-10-231.

Declaration that Company's bonds are not state obligations, see § 57-10-233.

Cancellation and redemption of bonds, see § 57-10-241.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-215. Insurance or guaranty fund.

There is hereby created an insurance or guaranty fund of the company which may be used for any of the following purposes:

(a) To insure the payment or repayment of all or any part of the principal of, redemption or prepayment premiums or penalties on, and interest on its bonds;

(b) To insure the payment or repayment of all or any part of the principal of, redemption or prepayment premiums or penalties on, and interest on any instrument executed, obtained or delivered in connection with the issuance and sale of its bonds; and

(c) To pay or insure the payment of any fees or premiums necessary to obtain insurance, guarantees or other instruments or enhancement of credit for or support from any person in connection with financing assistance provided by the company under this article including but not limited to working capital loans made by a lender.

SOURCES: Laws, 1985, ch. 450, § 8, eff from and after July 1, 1985.

Cross References — Company's power to insure or guarantee obligations and to allocate property to guaranty fund, see § 57-10-207.

Security of company's obligations, see § 57-10-217.
Company's power to establish funds and accounts, see § 57-10-247.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-217. Security for bonds or instruments.

The bonds or instruments with respect to which financial assistance is provided by the company shall be secured or unsecured in a manner approved by the company.

SOURCES: Laws, 1985, ch. 450, § 9, eff from and after July 1, 1985.

Cross References — Insurance or guaranty fund, see § 57-10-215.
Effect of pledge by company, see § 57-10-239.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-219. Premiums and fees for financial assistance.

The company may, in its discretion, set the premiums and fees to be paid to it for providing financial assistance under this article. The premiums and fees and expenses set by the company shall be payable in the amounts, at the time and in the manner that the company, in its discretion, requires. The premiums and fees need not be uniform among transactions and may vary in amount among transactions and at different stages during the terms of the transactions.

SOURCES: Laws, 1985, ch. 450, § 10, eff from and after July 1, 1985.

Cross References — Inclusion of fees in insurance or guaranty fund, see § 57-10-207.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-221. Applicability of debt limitation or restriction.

Bonds issued pursuant to the provisions of this article shall not constitute an indebtedness within the meaning of any debt limitation or restriction.

SOURCES: Laws, 1985, ch. 450, § 11, eff from and after July 1, 1985.

Cross References — Declaration that company's bonds are not state obligations, see § 57-10-233.

Aggregate debt limit of company's bonds, see § 57-10-235.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-223. Procedure for public hearings and approval.

Whenever federal law requires public hearings and public approval as a prerequisite to obtaining federal tax exemption for the interest paid on industrial development bonds under Section 141 of the Revenue Code, unless otherwise specified by federal law or regulation, the public hearing for industrial development bonds of the company shall be conducted by the company and the procedure for the public hearing and public approvals shall be as follows:

(a) For a public hearing by the company;

(i) Notice of the hearing shall be published at least once in a newspaper published or having general circulation in the municipality in which the facility to be financed is to be located, or having general circulation in the state, of intention to provide financing for a named applicant. The applicant shall pay the cost of notification. The notice shall specify the time and place of hearing at which persons may appear and present their views. The hearing shall be held not less than fourteen (14) days after the notice shall appear in such newspaper. The hearing may be held at any place within the state determined by the company;

(ii) The notice shall contain (A) the name and address of the company; (B) the name and address of the principal place of business, if any, of the applicant seeking financing; (C) the maximum dollar amount of financing sought; and (D) the type of business and purpose and specific location of the facility to be financed.

(b) For public approval, the Governor or State Treasurer is appointed by this article as the applicable elected representative within the meaning of Section 147(f) of the Revenue Code.

SOURCES: Laws, 1985, ch. 450, § 12; Laws, 1992, ch. 548 § 3, eff from and after passage (approved May 14, 1992).

Cross References — State Bond Commission, see §§ 31-17-101 et seq.

Federal Aspects — Exclusion from income of interest from obligations of governmental bodies, see 26 USCS § 103.

Section 141 of Internal Revenue Code, see 26 USCS § 141.

Section 147(f) of Internal Revenue Code, see 26 USCS § 147(f).

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102, 146, 147.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations § 214:40 et seq.; 214:73.

CJS. 47A C.J.S. Internal Revenue § 57.

64 C.J.S. Municipal Corporations § 2126.

§ 57-10-225. Loans to lenders.

The company may make, and undertake commitments to make, loans to lenders under terms and conditions requiring the proceeds thereof to be used by such lenders to make loans to eligible businesses. Loan commitments or actual loans may be originated through and serviced by any such lender. As a condition to a lender's participating in such loan, such lender shall agree to use the proceeds of such loan within a reasonable period of time to make loans or purchase loans to provide eligible businesses, or finance the projects of eligible businesses, in the state or, if such lender has made a commitment to make loans to provide eligible businesses on the basis of a commitment from the company to purchase such loans, such lender will make such loans within a reasonable period of time.

SOURCES: Laws, 1985, ch. 450, § 13; Laws, 1990 Ex Sess, ch. 71, § 12, eff from and after passage (approved June 30, 1990).

Cross References — General powers of company, see § 57-10-207.

Participation with private lenders in financing projects, see § 57-10-211.

Purchase and assignment to company of loans made by private lenders, see § 57-10-227.

Promulgation of regulations governing loans to private lenders and assignment of loans to company, see § 57-10-229.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-227. Investment in, purchase and assignment of loans made by lenders.

The company may invest in, purchase or make commitments to invest in or purchase, and take assignments or make commitments to take assignments, of loans made by lenders for the acquisition, construction, rehabilitation, expansion or purchase of a project or projects for eligible business.

SOURCES: Laws, 1985, ch. 450, § 14; Laws, 1990 Ex Sess, ch. 71, § 13, eff from and after passage (approved June 30, 1990).

Cross References — Powers of company, see § 57-10-207.

Issuance of bonds for purchase or assignment of loans by lenders, see § 57-10-209.

Loans to lenders, see § 57-10-225.

Promulgation of regulations governing loans to private lenders and assignment of loans to company, see § 57-10-229.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-229. Promulgation of regulations relating to §§ 57-10-225 and 57-10-227.

Prior to carrying out the powers granted under Sections 57-10-225 and 57-10-227, the company shall promulgate rules and regulations governing its activities authorized thereunder, including but not limited to rules and regulations relating to the following:

(a) Procedures for the submission of requests or invitations and proposals for making loans to lenders and the investment in, purchase, assignment and sale of loans;

(b) The reinvestment by a lender of the proceeds, or an equivalent amount, from any loan to a lender in loans to provide financing for eligible business in the state;

(c) Assurances that the eligible business to be financed will improve employment conditions or otherwise improve industrial development in the state;

(d) Rates, fees, charges and other terms and conditions for originating or servicing loans in order to protect against realization of an excessive financial return or benefit by the originator or servicer;

(e) The type and amount of collateral or security to be provided to assure repayment of loans to lenders made by the company;

(f) The type of collateral, payment bonds, performance bonds or other security to be provided for any loans made by a lender for construction loans;

(g) The nature and amount of fees to be charged by the company to provide for expenses and reserves of the company;

(h) Standards and requirements for the allocation of available money among lenders and the determination of the maturities, terms, conditions and interest rates for loans made, purchased, sold, assigned or committed pursuant hereto;

(i) Commitment requirements for financing by lenders involving money provided, directly or indirectly, by the company; or

(j) Any other appropriate matters related to the duties or exercise of the company's powers hereunder.

SOURCES: Laws, 1985, ch. 450, § 15; Laws, 1990 Ex Sess, ch. 71, § 14, eff from and after passage (approved June 30, 1990).

Cross References — Participation of company with private lenders, see § 57-10-211.

Loans to private lenders, see § 57-10-225.

Assignment of loans by private lenders to company, see § 57-10-227.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 226.

§ 57-10-231. Payment of bonds; additional security.

Except as may otherwise be expressly provided by the company in proceedings relating to a particular issue of bonds, every issue of its bonds shall be payable solely out of any revenues of the company. The bonds additionally may be secured by a pledge of any grant, contribution or guarantee from the federal government or any person or a pledge by the company of any revenues from any source.

SOURCES: Laws, 1985, ch. 450, § 16, eff from and after July 1, 1985.

Cross References — Issuance and refunding of bonds, see § 57-10-209.

Issuance of bonds to finance small businesses, see § 57-10-213.

Miscellaneous provisions of company's resolution authorizing issuance of bonds, see § 57-10-237.

Effect of pledge by company, see § 57-10-239.

Payment of expenses of company out of company's revenues, see § 57-10-253.

RESEARCH REFERENCES

ALR. Limitation statute applicable to action on bonds of public body or on obligation to collect revenues for their payment. 38 A.L.R.2d 930.

When limitations begin to run against actions on public securities or obligations to be paid out of a special or particular fund. 50 A.L.R.2d 271.

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-233. Liability of state or subdivisions on bonds; personal liability of directors; statement required on face of bond.

No bonds issued by the company under this article shall constitute a debt, liability or general obligation of the state or any political subdivision thereof (other than the company), or a pledge of the faith and credit of the state or any political subdivision thereof (other than the company), but shall be payable solely as provided by the company. No member or officer of the board of directors of the company nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. Each bond issued under this article shall contain on the face thereof a statement that neither the state, nor any other political subdivision thereof, shall be obligated to pay the same or the interest thereon or other costs incident thereto except from the revenue or money pledged by the company and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged to the payment of the principal of, or the interest on, such bond.

SOURCES: Laws, 1985, ch. 450, § 17, eff from and after July 1, 1985.

Cross References — Application of debt limitations, see § 57-10-221.

Miscellaneous provisions of company's bonds, see § 57-10-237.

Effect of pledge by company, see § 57-10-239.

Effect, on validity of bonds, of signatures of directors and officers who cease to have such status prior to delivery of bonds, see § 57-10-245.

Payment of expenses of company out of company's revenues, see § 57-10-253.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-235. Term, interest rate, denominations, etc. of bonds; use of proceeds; rules and regulations.

(1) The bonds shall be authorized by a resolution of the company, shall bear such date or dates, and shall mature at such time or times as such resolution may provide, except that no bond shall mature more than thirty (30) years from the date of issue. Bonds which are not subject to taxation shall bear interest at such rate or rates, be in such denominations, be in such form, carry such registration privileges, be executed in such manner, be payable in such

medium of payment, at such place or places, and be subject to such terms of redemption, including redemption prior to maturity, as such resolution may provide. Except as expressly provided otherwise in this article, the provisions of other laws of the state relating to the issuance of revenue bonds shall not apply to bonds issued by the company. As to bonds issued hereunder and designated as taxable bonds by the company, any immunity to taxation by the United States Government of interest on such bonds or notes is hereby waived. Bonds of the company may be sold by the company at public or private sale, from time to time, and at such price or prices as the company shall determine.

(2)(a) The company shall make available from the proceeds of bonds issued the amount of One Million Dollars ($1,000,000.00) to every certified development company created by a planning and development district in this state, which monies shall be used by such certified development companies to assist businesses within the planning and development districts in a manner consistent with the provisions of this chapter and with the provisions of the federal act.

(b) The company shall promulgate rules and regulations governing the activities authorized herein, including but not limited to:

(i) Procedures for the submission of requests or proposals by the certified development companies;

(ii) The reinvestment by the certified development companies of bond proceeds;

(iii) Assurance that the eligible business to be financed will improve employment or otherwise improve industrial development in the state;

(iv) Rates, fees, charges and other terms and conditions of loans between the certified development companies and the borrowers;

(v) The type and amount of collateral or security to be provided to assure repayment of bond proceeds and interest;

(vi) Standards and requirements for the allocation of available money among the certified development companies; and

(vii) Any other appropriate matters related to the duties or exercise of the company's power hereunder.

SOURCES: Laws, 1985, ch. 450, § 18; Laws, 1987, ch. 464, § 4; Laws, 1990, ch. 570, § 6; Laws, 1990 Ex Sess, ch. 71, § 15; Laws, 1993, ch. 548, § 10, eff from and after passage (approved April 19, 1993).

Editor's Note — Laws of 1990, ch. 570, § 20, effective July 1, 1990, provides as follows:

"SECTION 20. (1) Any attorney's fees paid as the result of the issuance of bonds under this act shall be in compliance with the limits on attorney's fees for bond issues as adopted by the State Bond Commission. Attorney's fees paid as the result of the issuance of bonds under this act shall be subject to negotiation but in no event shall exceed the limits established by the State Bond Commission. A detailed accounting of all expenses incurred by all persons, firms, corporations, associations or other organizations involved in such bond issues shall be submitted to the State Bond Commission within ninety (90) days after the issuance of such bonds and shall be a matter of public record.

"(2) No member of the Legislature, elected official or appointed official, or any partner or associate of any member of the Legislature, elected official or appointed official, shall derive any income from the issuance of any bonds or the disposition of any property under this act contrary to the provisions of Section 109, Mississippi Constitution of 1890, or Article 3, Chapter 4, Title 25, Mississippi Code of 1972.

"(3) In connection with the issuance and sale of bonds authorized under this act, the State Bond Commission shall select a bond attorney or attorneys who are listed in the 'Directory of Municipal Bond Dealers of the United States' and who are members in good standing of the Mississippi State Bar Association and licensed to practice law in the State of Mississippi; however, upon a finding by the commission spread on its official minutes that the public interest will best be served thereby, the commission may select any bond attorney or attorneys listed in the 'Directory of Municipal Bond Dealers of the United States'."

Cross References — Issuance of bonds generally, see § 57-10-209.

Issuance of bonds to finance small businesses, see § 57-10-213.

Applicability of other debt limitations and restrictions, see § 57-10-221.

Payment of bonds out of company's revenue, see § 57-10-231.

Declaration that company's bonds are not state obligations, see § 57-10-233.

Miscellaneous provisions of company's bonds, see § 57-10-237.

Cancellation and redemption of bonds, see § 57-10-241.

Effect of amendments to this article upon outstanding obligations of company, see § 57-10-251.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-237. Miscellaneous provisions of resolution authorizing issuance of bonds.

Any resolution authorizing the issuance of bonds may contain provisions as to:

(a) Pledging all or any part of the revenues of the company to secure the payment of the bonds subject to the terms of the proceedings relating to other bonds of the company as may then exist;

(b) Pledging all or any part of the assets of the company, including loans and obligations securing the same, to secure the payment of the bonds, subject to the terms of the proceedings relating to other bonds of the company as may then exist;

(c) The use and disposition of the gross income from loans owned by the company and payment of the principal of loans owned by the company;

(d) The setting aside of reserves or sinking funds and the regulations and disposition thereof;

(e) Limitations on the purposes to which the proceeds from the sale of bonds may be applied and pledging the proceeds to secure the payment of the bonds;

(f) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding or other bonds;

(g) The procedure, if any, by which the terms of any of the proceedings under which the bonds are being issued may be amended or abrogated, the number or percentage of bondholders who or which must consent thereto, and the manner in which the consent may be given;

(h) The vesting in a trustee or trustees of such property, rights, powers and duties in trust as the company may determine, and limiting or abrogating the right of bondholders to appoint a trustee or limiting the rights, powers and duties of the trustee;

(i) Defining the act or omissions to act which shall constitute a default and the obligations or duties of the company to the holders of the bonds, and providing for the rights and remedies of the holders of the bonds in the event of default, which rights and remedies may include the general laws of the state and other provisions of this article; or

(j) Any other matter, of like or different character, which in any way affects the security or protection of the holders of the bonds.

SOURCES: Laws, 1985, ch. 450, § 19, eff from and after July 1, 1985.

Cross References — Issuance and refunding of bonds, see § 57-10-209.

Payment of bonds, see § 57-10-231.

Declaration that bonds are not obligations of state, see § 57-10-233.

Term, denomination, interest rate, and aggregate debt limitation, see § 57-10-235.

Effect of pledge by company, see § 57-10-239.

Cancellation and redemption of bonds, see § 57-10-241.

Effect, on validity of bonds, of signatures of directors and officers who cease to have such status prior to delivery of bonds, see § 57-10-245.

Contracts with bondholders, see § 57-10-249.

Effect of amendments to this article upon outstanding obligations of company, see § 57-10-251.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-239. Effect of pledge; recording of resolution or other instruments.

Any pledge made by the company shall be valid and binding from the time when the pledge was made. The revenues or properties so pledged and thereafter received by the company shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the company, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

SOURCES: Laws, 1985, ch. 450, § 20, eff from and after July 1, 1985.

Cross References — Security of company's bonds, see § 57-10-217.
Pledge of particular revenues of company, see § 57-10-231.
Declaration that bonds are not obligations of state, see § 57-10-233.
Miscellaneous provisions of company's bonds, see § 57-10-237.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-241. Cancellation and redemption of bonds.

The company, subject to the provisions in proceedings relating to outstanding bonds as may then exist, may purchase bonds out of any funds available therefor, which shall thereupon be cancelled, at any reasonable price which, if the bonds are then redeemable, shall not exceed the redemption price (and premium, if any) then applicable plus accrued interest to the redemption date thereof.

SOURCES: Laws, 1985, ch. 450, § 21, eff from and after July 1, 1985.

Cross References — Issuance and refunding of bonds, see § 57-10-209.
Issuance of bonds for financing small business projects, see § 57-10-213.
Term, interest rate and denominations, see § 57-10-235.
Miscellaneous provisions of bonds, see § 57-10-237.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-243. Trust indenture.

The bonds may be secured by an indenture by and between the company and a corporate trustee which may be any bank or other corporation having the power of a trust company or any trust company within or without this state. Such indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the company in relation to the exercise of its powers and the custody, safekeeping and application of all money. The company may provide by the indenture for the payment of the proceeds of the bonds and revenues to the trustee under the indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as the company may determine. If the bonds shall be secured by an indenture, the bondholders shall have no authority to appoint a separate trustee to represent them.

SOURCES: Laws, 1985, ch. 450, § 22, eff from and after July 1, 1985.

Cross References — Issuance and refunding of bonds, see § 57-10-209.
Miscellaneous provisions of bonds, see § 57-10-237.
Contracts with bondholders, see § 57-10-249.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-245. Signatures on bonds.

In the event that any of the members or officers of the board of directors of the company shall cease to be members or officers of the board prior to the delivery of any bonds signed by them, their signatures or facsimiles thereof shall nevertheless be valid and sufficient for all purposes, the same as if such members or officers had remained in office until such delivery.

SOURCES: Laws, 1985, ch. 450, § 23, eff from and after July 1, 1985.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102, 153.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-247. Establishment of funds and accounts.

The company may create and establish such funds and accounts as may be necessary or desirable for its purposes.

SOURCES: Laws, 1985, ch. 450, § 24, eff from and after July 1, 1985.

Cross References — General powers of company, see § 57-10-207.
Establishment of insurance or guaranty fund, see § 57-10-215.
Payment of bonds, see § 57-10-231.
Payment of expenses of company out of company's revenues, see § 57-10-253.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.
15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-249. Contracts with bondholders.

The company shall have the power to contract with the holders of any of its bonds as to the custody, collection, securing, investment and payment of any money of the company, and of any money held in trust or otherwise for the payment of bonds, and to carry out such contract. Money held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of money may be secured in the same manner as money of the company, and all banks and trust companies are authorized to give security for the deposits.

SOURCES: Laws, 1985, ch. 450, § 25, eff from and after July 1, 1985.

Cross References — Miscellaneous provisions of resolution authorizing issuance of bonds, see § 57-10-237.
Trust indenture, see § 57-10-243.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.
15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-251. Effect of future amendments to article.

Subsequent amendments to this article shall not limit the rights vested in the company with respect to any agreements made with, or remedies available to, the holders of bonds issued under this article prior to the enactment of the amendments until the bonds, together with all interest thereon, and all costs and expenses in connection with any proceeding by or on behalf of the holders, are fully met and discharged.

SOURCES: Laws, 1985, ch. 450, § 26, eff from and after July 1, 1985.

Cross References — Power to invest in instruments which may be permitted under § 57-10-251, see § 57-10-207.
Issuance and refunding of bonds, see § 57-10-209.
Term, interest rate, and denominations of bonds, see § 57-10-235.
Miscellaneous provisions of bonds, see § 57-10-237.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-253. Expenses.

All expenses incurred by the company in carrying out the provisions of this article shall be payable solely from funds provided under this article, and nothing in this article shall be construed to authorize the company to incur indebtedness or liability on behalf of or payable by the state or any other political subdivision thereof.

SOURCES: Laws, 1985, ch. 450, § 27, eff from and after July 1, 1985.

Cross References — Powers generally, see § 57-10-207.

Payment of bonds out of revenue, see § 57-10-231.

Declaration that bonds are not state obligations, see § 57-10-233.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-255. Tax-exempt status of company; state's right to remaining assets upon dissolution; mortgages, leases, etc., tax-exempt; time limit on ad valorem tax exemption; new ad valorem tax exemptions where tax levied for school district purposes.

(1) The company is hereby declared to be performing a public function and to be a public body corporate and a political subdivision of the state. Accordingly, the income, including any profit made on the sale thereof from all bonds issued by the company, shall at all times be exempt from all taxation by the state or any public subdivision thereof. If, after all indebtedness and other obligations of the company are discharged the company is dissolved, its remaining assets shall inure to the benefit of the state.

(2) All mortgages or deeds of trust executed as security therefor, all lease, loan or purchase agreements made pursuant to the provisions hereof, all purchases required to establish the enterprise and financed by proceeds from bonds issued pursuant to Chapter 10, Title 57, Mississippi Code of 1972, shall likewise be exempt from all taxation in the State of Mississippi except the contractors' tax imposed by Section 27-65-21 and the taxes levied by Section 27-65-24(1)(b), and all projects financed by the proceeds from such bonds and

the revenue derived from any lease thereof shall be exempt from all taxation in the State of Mississippi, except the tax levied by Sections 27-65-21 and 27-65-24(1)(b), and except the tax levied under Chapter 7, Title 27, Mississippi Code of 1972. From and after July 1, 2002, there shall be no new ad valorem tax exemption authorized under this section unless approved by the appropriate local taxing authority.

(3) The time of any ad valorem tax exemption provided for hereunder shall not exceed a total of ten (10) years, which shall run from the date of the completion of the project. In no event shall the term of the ad valorem tax exemption provided for hereunder be limited, terminated or otherwise affected by payment in full of the bonds issued under this chapter or by the change from a leasehold to a fee title in the enterprise financed with bonds issued under this chapter.

(4) From and after July 1, 1990, there shall be no new exemption under this section from ad valorem taxes levied for school district purposes.

SOURCES: Laws, 1985, ch. 450, § 28; Laws, 1987, ch. 464, § 5; Laws, 1990 Ex Sess, ch. 71, § 16; Laws, 1992, ch. 518, § 5; Laws, 1995, ch. 355, § 3; Laws, 2002, ch. 498, § 1; Laws, 2010, ch. 449, § 7, eff from and after July 1, 2010.

Cross References — Time for making request for exemption from ad valorem taxation for projects financed with bonds issued under §§ 57-10-205 et seq., see § 27-31-101.

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If a leasehold interest in city property is purchased with funds pursuant to the statute and meets the statutory requirements, then the leasehold interest is exempt from taxation for a term not to exceed 10 years except those taxes imposed by § 27-65-21 and Chapter 7, Title 27, of the Mississippi Code of 1972. Hembree, Jan. 25, 2002, A.G. Op. #01-0795.

Tax exemptions based solely on § 57-10-255 are mandatory in nature, but may be granted in the discretion of the board of supervisors for any period of time not to exceed ten years. Trapp, Aug. 30, 2002, A.G. Op. #02-0445.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-257. Investment in bonds; bonds as security for deposits.

The bonds issued by and under the authority of this article by the company are declared to be legal investments in which all public officers or public bodies of the state, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations, and other persons carrying on insurance business, all banks, bankers, banking associations, trust companies, savings associations, including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons who are now or may later be authorized to invest in bonds or in other obligations of the state, may invest funds, including capital, in their control or belonging to them. Such bonds are also hereby made securities which may be deposited with and received by all public officers and bodies of the state or any agency or political subdivision of the state and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the state is now or may be later authorized by law.

SOURCES: Laws, 1985, ch. 450, § 29, eff from and after July 1, 1985.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-259. Annual report.

The company shall, within one hundred twenty (120) days of the close of each fiscal year, submit an annual report of its activities for the preceding year to the Governor. The clerk of each house of the Legislature shall receive a copy of the report by making a request for it to the company. Each report shall set forth a complete operating and financial statement for the company during the fiscal year it covers.

SOURCES: Laws, 1985, ch. 450, § 30, eff from and after July 1, 1985.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

§ 57-10-261. Construction of article.

Nothing contained in this article is to be construed as a restriction or limitation upon any powers which the company might otherwise have under any other law of the state. Insofar as the provisions of this article are inconsistent with the provisions of any other law, the provisions of this article shall be controlling, and the powers conferred by this article shall be regarded as supplemental and additional to powers conferred by any other laws. No proceedings, notice or approval shall be required for the issuance of any bonds or any instrument or the security therefor, except as provided in this article.

The provisions of this article shall be liberally construed to accomplish the purposes of this article.

The powers granted and the duties imposed in this article shall be construed to be independent and severable. If any one or more sections, subsections, sentences or parts of any of this article shall be adjudged unconstitutional or invalid, such adjudication shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions so held unconstitutional or invalid.

SOURCES: Laws, 1985, ch. 450, § 31, eff from and after July 1, 1985.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

15 Am. Jur. Legal Forms 2d, Public Securities and Obligations §§ 214:40 et seq.; 214:73.

CJS. 64 C.J.S. Municipal Corporations § 2126.

ARTICLE 9.

MISSISSIPPI BUSINESS FINANCE CORPORATION BEGINNING FARMER PROGRAM.

SEC.
57-10-301. Short title.
57-10-303. Definitions.
57-10-305. Legislative findings and determinations.
57-10-307. Development of program; general powers of corporation; rules and regulations.
57-10-309. Mortgage or secured loans; issuance of bonds or notes.

§ 57-10-301. Short title.

This article shall be entitled the "Mississippi Business Finance Corporation Beginning Farmer Program."

SOURCES: Laws, 1992, ch. 461, § 1, eff from and after passage (approved May 5, 1992).

RESEARCH REFERENCES

CJS. 3 C.J.S., Agriculture § 76.

§ 57-10-303. Definitions.

For the purposes of this article, the following words shall have the meanings ascribed herein, unless the context otherwise requires:

(a) "Act" means the Mississippi Business Financing Act being Title 57, Chapter 10, Article 7, Mississippi Code of 1972.

(b) "Agricultural land" means land suitable for use in farming.

(c) "Agricultural improvements" means any improvements, buildings, structures or fixtures suitable for use in farming which are located on agricultural land. "Agricultural improvements" includes a single-family dwelling located on agricultural land which is or will be occupied by the beginning farmer and structures attached to or incidental to the use of the dwelling.

(d) "Corporation" means the Mississippi Business Finance Corporation.

(e) "Beginning farmer" means an individual or partnership with a low or moderate net worth that engages in farming or wishes to engage in farming.

(f) "Bonds" means bonds issued by the corporation pursuant to the provisions of the Mississippi Business Financing Act.

(g) "Depreciable agricultural property" means personal property suitable for use in farming for which an income tax deduction for depreciation is allowable in computing federal income tax under the Internal Revenue Code of 1986, as amended.

(h) "Farming" means the cultivation of land for the production of agricultural crops, the raising of poultry, the production of eggs, the production of milk, the production of fruit or other horticultural crops, grazing, the production of livestock, aquaculture, hydroponics, the production of forest products or other activities designated by the corporation.

(i) "Mortgage" means a mortgage, mortgage deed, deed of trust, or other instrument creating a first lien, subject only to title exceptions and encumbrances acceptable to the corporation, including any other mortgage liens of equal standing with or subordinate to the mortgage loan retained by a seller or conveyed to a mortgage lender, on a fee interest in agricultural land and agricultural improvements.

(j) "Mortgage lender" means a bank, trust company, mortgage company, national banking association, savings and loan association, life insurance company, any state or federal governmental agency or instrumentality, including without limitation the Federal Land Bank or any of its local associations, or any other financial institution or entity authorized to make mortgage loans or secured loans in this state.

(k) "Mortgage loan" means a financial obligation secured by a mortgage.

(*l*) "Note" means a bond anticipation note or other obligation or evidence of indebtedness issued by the corporation pursuant to this article.

(m) "Secured loan" means a financial obligation secured by a chattel mortgage, security agreement or other instrument creating a lien on an interest in depreciable agricultural property.

(n) "State agency" means any board, commission, department, public officer or other agency or authority of the State of Mississippi.

SOURCES: Laws, 1992, ch. 461, § 2; Laws, 1993, ch. 548, § 11, eff from and after passage (approved April 19, 1993).

Cross References — Mississippi Business Finance Corporation, see § 57-10-167.

Mississippi Small Business Financing Act, see § 57-10-201 et seq.
Federal Aspects — Internal Revenue Code, see 26 USCS §§ 1 et seq.

§ 57-10-305. Legislative findings and determinations.

The Legislature finds and determines as follows:

(a) There exists a serious problem in the state regarding the ability of nonestablished farmers to acquire agricultural land and agricultural improvements and depreciable agricultural property in order to enter farming.

(b) This barrier to entry into farming is conducive to consolidation of acreage of agricultural land with fewer individuals resulting in a grave threat to the traditional family farm.

(c) These conditions result in a loss in population, unemployment and a movement of persons from rural communities to urban areas accompanied by added costs to communities for creation of new public facilities and services.

(d) One major cause of this condition has been recurrent shortages of funds in private channels and the high interest cost of borrowing.

(e) These shortages and costs have made the sale and purchase of agricultural land to beginning farmers a virtual impossibility in many parts of the state.

(f) The ordinary operations of private enterprise have not in the past corrected these conditions.

(g) A stable supply of adequate funds for agricultural financing is required to encourage beginning farmers in an orderly and sustained manner and to reduce the problems described in this section.

(h) It is necessary that the corporation be given the authority to encourage ownership of farms by beginning farmers by providing purchase money loans to beginning farmers who are not able to obtain adequate capital elsewhere to provide such funds and to lower costs through the use of public financing.

SOURCES: Laws, 1992, ch. 461, § 3, eff from and after passage (approved May 5, 1992).

§ 57-10-307. Development of program; general powers of corporation; rules and regulations.

(1) The corporation shall develop a beginning farmer loan program to facilitate the acquisition of agricultural land and improvements and depreciable agricultural property by beginning farmers. The corporation shall exercise the powers granted to it in Title 57, Chapter 10, Article 9 and Title 57, Chapter 10, Article 7, Mississippi Code of 1972, in order to fulfill the goal of providing financial assistance to beginning farmers in the acquisition of agricultural land and agricultural improvements and depreciable agricultural property. The corporation may participate in and cooperate with programs of the Farmers Home Administration, Federal Land Bank or any other agency or instrumentality of the federal government or with any program of any other

state agency in the administration of the beginning farmer loan program and in the making or purchasing of mortgage or secured loans pursuant to this article.

(2) The corporation may participate in any federal programs designed to assist beginning farmers or in any related federal or state programs.

(3) Prior to carrying out the powers granted under Sections 57-10-301 through 57-10-305, the corporation shall promulgate rules and regulations governing activities authorized hereunder, including but not limited to rules and regulations including the following:

(a) The beginning farmer is a resident of the state. If the beginning farmer is a partnership, all partners shall be residents of the state.

(b) The agricultural land and agricultural improvements or depreciable agricultural property the beginning farmer proposes to purchase will be located in the state.

(c) The beginning farmer has sufficient education, training or experience in the type of farming for which the beginning farmer requests the mortgage or secured loan. If the beginning farmer is a partnership, all partners shall have sufficient education, training or experience in the type of farming for which the beginning farmer requests the mortgage or secured loan.

(d) A loan to a beginning farmer for the acquisition of agricultural land and agricultural improvements does not exceed Two Hundred Fifty Thousand Dollars ($250,000.00). A loan to a beginning farmer for the acquisition of depreciable agricultural property does not exceed One Hundred Twenty-five Thousand Dollars ($125,000.00).

(e) If the loan is for the acquisition of agricultural land, the beginning farmer has or will have access to adequate working capital, farm equipment, machinery or livestock. If the loan is for the acquisition of depreciable agricultural property, the beginning farmer has or will have access to adequate working capital or agricultural land.

(f) The beginning farmer will materially and substantially participate in farming. If the beginning farmer is a partnership, each partner shall materially and substantially participate in farming.

(g) If the beginning farmer is an individual, the agricultural land and agricultural improvements shall only be used for farming by the individual, the individual's spouse, the individual's minor children, or any of them. If the beginning farmer is a partnership, the agricultural land and agricultural improvements shall only be used for farming by the partners, each partner's spouse, each partner's minor children, or any of them.

(h) The beginning farmer has not previously received financing under this article for the acquisition of property similar in nature to the property for which the loan is sought. However, this restriction shall not apply if the amount previously received plus the amount of the loan does not exceed Two Hundred Fifty Thousand Dollars ($250,000.00) in the case of agricultural land and improvements or One Hundred Twenty-five Thousand Dollars ($125,000.00) in the case of depreciable agricultural property.

(4) The corporation may provide in a mortgage or secured loan made or purchased pursuant to this article that the loan may not be assumed or any interest in the agricultural land or improvements or depreciable agricultural property may not be leased, sold or otherwise conveyed without its prior written consent and may provide a due-on-sale clause with respect to the occurrence of any of the foregoing events without its prior written consent. The corporation may provide by rule the grounds for permitted assumptions of a mortgage or for the leasing, sale or other conveyance of any interest in the agricultural land or improvements. However, the corporation shall provide and state in a mortgage or secured loan that the corporation has the power to raise the interest rate of the loan to the prevailing market rate if the mortgage or secured loan is assumed by a farmer who is already established in that field at the time of the assumption of the loan.

(5) The corporation may participate in any interest in any mortgage or secured loan made or purchased pursuant to this article with a mortgage lender. The participation interest may be on a parity with the interest in the mortgage or secured loan retained by the corporation, equally and ratably secured by the mortgage or securing agreement securing the mortgage or secured loan.

SOURCES: Laws, 1992, ch. 461, § 4, eff from and after passage (approved May 5, 1992).

Cross References — Mississippi Small Business Financing Act, see §§ 57-10-201 et seq.

Mississippi Business Finance Corporation Beginning Farmer Program, see §§ 57-10-301 et seq.

RESEARCH REFERENCES

CJS. 3 C.J.S., Agriculture § 76.

§ 57-10-309. Mortgage or secured loans; issuance of bonds or notes.

(1) The corporation may make mortgage or secured loans, including, but not limited to, mortgage or secured loans insured, guaranteed or otherwise secured by the federal government or a federal governmental agency or instrumentality, a state agency or private mortgage insurers, to beginning farmers to provide financing for agricultural land and agricultural improvements or depreciable agricultural property.

(2) Mortgage or secured loans shall contain terms and provisions, including interest rates, and be in a form established by rules of the corporation. The corporation may require the beginning farmer to execute a note, loan agreement or other evidence of indebtedness and furnish additional assurances and guarantees, including insurance, reasonably related to protecting the security of the mortgage or secured loan, as the corporation deems necessary.

(3) The corporation may enter into a loan agreement with a beginning farmer to finance in whole or in part the acquisition by construction or purchase of agricultural land, agricultural improvements or depreciable agricultural property. The repayment obligation of the beginning farmer may be unsecured, or may be secured by a mortgage or security agreement or by other security as the corporation deems advisable, and may be evidenced by one or more notes of the beginning farmer. The loan agreement may contain terms and conditions as the corporation deems advisable.

(4) The corporation may issue its bonds and notes for the purposes set forth in this article and Title 57, Chapter 10, Article 7, Mississippi Code of 1972, relating to the issuance of bonds and notes by the corporation and may enter into a lending agreement or purchase agreement with one or more bondholders or noteholders containing the terms and conditions of the repayment of and the security for the bonds or notes. Bonds and notes must be authorized by a resolution of the corporation. The corporation and the bondholders or noteholders may enter into an agreement to provide for any of the following:

(a) That the proceeds of the bonds and notes and investments thereon may be received, held and disbursed by the bondholders or noteholders, or by a trustee or agent designated by the corporation.

(b) That the bondholders or noteholders or a trustee or agent designated by the corporation may collect, invest and apply the amounts payable under the loan agreement or any other security instrument securing the debt obligation of the beginning farmer.

(c) That the bondholders or noteholders may enforce the remedies provided in the loan agreement or security instrument on their own behalf without the appointment or designation of a trustee and if there is a default in the principal of or interest on the bonds or notes or in the performance of any agreement contained therein, the payment or performance may be enforced in accordance with the provisions contained therein.

(d) That if there is a default in the payment of the principal or interest on a mortgage or security instrument or a violation of an agreement contained in the mortgage or security instrument, the mortgage or security instrument may be foreclosed or enforced and any collateral sold under proceedings or actions permitted by law and a trustee under the mortgage or security agreement or the holder of any bonds or notes secured thereby may become a purchaser if it is the highest bidder.

(e) Other terms and conditions.

(5) The corporation shall provide in the resolution authorizing the issuance of the bonds or notes that the principal and interest shall be limited obligations payable solely out of the revenues derived from the debt obligation, collateral or other security furnished by or on behalf of the beginning farmer, and that the principal and interest does not constitute an indebtedness of the corporation, the state or any political subdivision thereof.

SOURCES: Laws, 1992, ch. 461, § 5, eff from and after passage (approved May 5, 1992).

Cross References — Mississippi Small Business Financing Act, see §§ 57-10-201 et seq.

RESEARCH REFERENCES

CJS. 3 C.J.S., Agriculture § 76.

ARTICLE 11.

BONDS TO FINANCE ECONOMIC DEVELOPMENT PROJECTS.

SEC.

57-10-401. Definitions [Repealed effective October 1, 2015].
57-10-403. Legislative findings and declarations [Repealed effective October 1, 2015].
57-10-405. General powers and duties of corporation [Repealed effective October 1, 2015].
57-10-407. Power of corporation to accept and expend monies [Repealed effective October 1, 2015].
57-10-409. Financing agreements [Repealed effective October 1, 2015].
57-10-411. Certification of company's state income tax liability and amount of tax credits [Repealed effective October 1, 2015].
57-10-413. Job development assessment fee [Repealed effective October 1, 2015].
57-10-415. Payment of revenue bonds; security [Repealed effective October 1, 2015].
57-10-417. Bonds as limited obligation of corporation; personal liability of member or officer of corporate board [Repealed effective October 1, 2015].
57-10-419. Issuance of bonds generally; use of proceeds; interim receipts, temporary certificates, replacement certificates [Repealed effective October 1, 2015].
57-10-421. Additional provisions in bond issue resolution [Repealed effective October 1, 2015].
57-10-423. Pledge made by corporation; recording of resolution or other instrument [Repealed effective October 1, 2015].
57-10-425. Purchase of bonds by corporation [Repealed effective October 1, 2015].
57-10-427. Trust indentures [Repealed effective October 1, 2015].
57-10-429. Signatures on bonds [Repealed effective October 1, 2015].
57-10-431. Establishment of funds and accounts [Repealed effective October 1, 2015].
57-10-433. Contracts with bondholders; securing of moneys held for payment of bonds [Repealed effective October 1, 2015].
57-10-435. Effect of amendments to Sections 57-10-401 through 57-10-445 enacted after July 1, 1993 [Repealed effective October 1, 2015].
57-10-437. Payment of expenses of corporation; limitation on liability [Repealed effective October 1, 2015].
57-10-439. Exemption from taxation of income, profits, revenues, bonds, mortgages, deeds of trust and other agreements of corporation [Repealed effective October 1, 2015].
57-10-441. Investment in bonds; bonds as security for deposits [Repealed effective October 1, 2015].
57-10-443. Annual report of corporation [Repealed effective October 1, 2015].

57-10-445. Construction of Sections 57-10-401 through 57-10-445 [Repealed effective October 1, 2015].
57-10-447. Deriving of pecuniary benefit or income by public official, member of Legislature, or partner or associate or family member of legislator.
57-10-449. Repeal of Sections 57-10-401 through 57-10-445 and 27-7-22.3.

§ 57-10-401. Definitions [Repealed effective October 1, 2015].

[In cases involving an economic development project for which the Mississippi Business Finance Corporation has issued bonds for the purpose of financing the approved costs of such project prior to July 1, 1994, this section shall read as follows:]

As used in Sections 57-10-401 through 57-10-445, the following terms shall have the meanings ascribed to them herein unless the context clearly indicates otherwise:

(a) "Approved company" means any eligible company seeking to locate an economic development project in a county, which eligible company is approved by the corporation.

(b) "Approved costs" means:

(i) Obligations incurred for equipment and labor and to contractors, subcontractors, builders and materialmen in connection with the acquisition, construction and installation of an economic development project;

(ii) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(iii) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction and installation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(iv) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction and installation of an economic development project;

(v) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction and installation of an economic development project;

(vi) All costs, expenses and fees incurred in connection with the issuance of bonds pursuant to Sections 57-10-401 through 57-10-445;

(vii) All costs funded by a loan made under the Mississippi Small Enterprise Development Finance Act; and

(viii) All costs of professionals permitted to be engaged under the Mississippi Small Enterprise Development Finance Act for a loan made under such act.

(c) "Assessment" means the job development assessment fee authorized in Section 57-10-413.

(d) "Bonds" means the revenue bonds, notes or other debt obligations of the corporation authorized to be issued by the corporation on behalf of an eligible company or other state agency.

(e) "Corporation" means the Mississippi Business Finance Corporation created under Section 57-10-167, Mississippi Code of 1972.

(f) "Economic development project" means and includes the acquisition of any equipment or real estate in a county and the construction and installation thereon, and with respect thereto, of improvements and facilities necessary or desirable for improvement of the real estate, including surveys, site tests and inspections, subsurface site work, excavation, removal of structures, roadways, cemeteries and other surface obstructions, filling, grading and provision of drainage, storm water detention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications and similar facilities, off-site construction of utility extensions to the boundaries of the real estate, and the acquisition, construction and installation of manufacturing, telecommunications, data processing, distribution or warehouse facilities on the real estate, for lease or financial arrangement by the corporation to an approved company for use and occupancy by the approved company or its affiliates for manufacturing, telecommunications, data processing, distribution or warehouse purposes. Such term also includes, without limitation, any project the financing of which has been approved under the Mississippi Small Enterprise Development Finance Act. From and after January 1, 2014, such term also includes the economic development project of a related approved company that is merged into or consolidated with another approved company where the approved companies are engaged in a vertically integrated manufacturing or warehouse operation.

(g) "Eligible company" means any corporation, partnership, sole proprietorship, business trust, or other entity which is:

(i) Engaged in manufacturing which meets the standards promulgated by the corporation under Sections 57-10-401 through 57-10-445;

(ii) A private company approved by the corporation for a loan under the Mississippi Small Enterprise Development Finance Act;

(iii) A distribution or warehouse facility employing a minimum of fifty (50) people or employing a minimum of twenty (20) people and having a capital investment in such facility of at least Five Million Dollars ($5,000,000.00); or

(iv) A telecommunications or data processing business.

(h) "Executive director" means the Executive Director of the Mississippi Business Finance Corporation.

(i) "Financing agreement" means any financing documents and agreements, indentures, loan agreements, lease agreements, security agreements and the like, entered into by and among the corporation, private lenders and an approved company with respect to an economic development project.

(j) "Manufacturing" means any activity involving the manufacturing, processing, assembling or production of any property, including the processing resulting in a change in the conditions of the property and any activity functionally related thereto, together with the storage, warehousing, distribution and related office facilities in respect thereof as determined by the

Mississippi Business Finance Corporation; however, in no event shall "manufacturing" include mining, coal or mineral processing, or extraction of Mississippi minerals.

(k) "State agency" means any state board, commission, committee, council, university, department or unit thereof created by the Constitution or laws of this state.

(*l*) "Revenues" shall not be considered state funds.

(m) "State" means the State of Mississippi.

(n) "Mississippi Small Enterprise Development Finance Act" means the provisions of law contained in Section 57-71-1 et seq.

[In cases involving an economic development project for which the Mississippi Business Finance Corporation has not issued bonds for the purpose of financing the approved costs of such project prior to July 1, 1994, this section shall read as follows:]

As used in Sections 57-10-401 through 57-10-445, the following terms shall have the meanings ascribed to them herein unless the context clearly indicates otherwise:

(a) "Approved company" means any eligible company seeking to locate an economic development project in a county, which eligible company is approved by the corporation.

(b) "Approved costs" means:

(i) Obligations incurred for equipment and labor and to contractors, subcontractors, builders and materialmen in connection with the acquisition, construction and installation of an economic development project;

(ii) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(iii) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction and installation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(iv) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction and installation of an economic development project;

(v) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction and installation of an economic development project;

(vi) All costs, expenses and fees incurred in connection with the issuance of bonds pursuant to Sections 57-10-401 through 57-10-445;

(vii) All costs funded by a loan made under the Mississippi Small Enterprise Development Finance Act; and

(viii) All costs of professionals permitted to be engaged under the Mississippi Small Enterprise Development Finance Act for a loan made under such act.

(c) "Assessment" means the job development assessment fee authorized in Section 57-10-413.

(d) "Bonds" means the revenue bonds, notes or other debt obligations of the corporation authorized to be issued by the corporation on behalf of an eligible company or other state agency.

(e) "Corporation" means the Mississippi Business Finance Corporation created under Section 57-10-167, Mississippi Code of 1972.

(f) "Economic development project" means and includes the acquisition of any equipment or real estate in a county and the construction and installation thereon, and with respect thereto, of improvements and facilities necessary or desirable for improvement of the real estate, including surveys, site tests and inspections, subsurface site work, excavation, removal of structures, roadways, cemeteries and other surface obstructions, filling, grading and provision of drainage, storm water detention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications and similar facilities, off-site construction of utility extensions to the boundaries of the real estate, and the acquisition, construction and installation of manufacturing, telecommunications, data processing, distribution or warehouse facilities on the real estate, for lease or financial arrangement by the corporation to an approved company for use and occupancy by the approved company or its affiliates for manufacturing, telecommunications, data processing, distribution or warehouse purposes. Such term also includes, without limitation, any project the financing of which has been approved under the Mississippi Small Enterprise Development Finance Act.

If an eligible company closes a facility in this state and becomes an approved company under the provisions of Sections 57-10-401 through 57-10-449, only that portion of the project for which such company is attempting to obtain financing that is in excess of the value of the closed facility shall be included within the definition of the term "economic development project." The Mississippi Business Finance Corporation shall promulgate rules and regulations to govern the determination of the difference between the value of the closed facility and the new facility.

(g) "Eligible company" means any corporation, partnership, sole proprietorship, business trust, or other entity which:

(i) Engaged in manufacturing which meets the standards promulgated by the corporation under Sections 57-10-401 through 57-10-445;

(ii) A private company approved by the corporation for a loan under the Mississippi Small Enterprise Development Finance Act;

(iii) A distribution or warehouse facility employing a minimum of fifty (50) people or employing a minimum of twenty (20) people and having a capital investment in such facility of at least Five Million Dollars ($5,000,000.00);

(iv) A telecommunications or data/information processing business meeting criteria established by the Mississippi Business Finance Corporation;

(v) National or regional headquarters meeting criteria established by the Mississippi Business Finance Corporation;

(vi) Research and development facilities meeting criteria established by the Mississippi Business Finance Corporation; or

(vii) Technology intensive enterprises or facilities meeting criteria established by the Mississippi Business Finance Corporation.

(h) "Executive director" means the Executive Director of the Mississippi Business Finance Corporation.

(i) "Financing agreement" means any financing documents and agreements, indentures, loan agreements, lease agreements, security agreements and the like, entered into by and among the corporation, private lenders and an approved company with respect to an economic development project.

(j) "Manufacturing" means any activity involving the manufacturing, processing, assembling or production of any property, including the processing resulting in a change in the conditions of the property and any activity functionally related thereto, together with the storage, warehousing, distribution and related office facilities in respect thereof as determined by the Mississippi Business Finance Corporation; however, in no event shall "manufacturing" include mining, coal or mineral processing, or extraction of Mississippi minerals.

(k) "State agency" means any state board, commission, committee, council, university, department or unit thereof created by the Constitution or laws of this state.

(*l*) "Revenues" shall not be considered state funds.

(m) "State" means the State of Mississippi.

(n) "Mississippi Small Enterprise Development Finance Act" means the provisions of law contained in Section 57-71-1 et seq.

SOURCES: Laws, 1993, ch. 565, § 1; Laws, 1994, ch. 525, § 2; reenacted without change, Laws, 1997, ch. 576, § 1; Laws, 1998, ch. 397, § 1; reenacted without change, Laws, 2000, ch. 425, § 1; reenacted without change, Laws, 2001, ch. 337, § 1; reenacted without change, Laws, 2005, ch. 399, § 1; Laws, 2005, 3rd Ex Sess, ch. 1, § 68; reenacted without change, Laws, 2007, ch. 389, § 1; reenacted without change, Laws, 2011, ch. 519, § 1; Laws, 2014, ch. 454, § 1, eff from and after Jan. 1, 2014.

Editor's Note — For repeal date of this section, see § 57-10-449.

This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011.

Laws of 2014, Chapter 454 § 2, effective January 1, 2014, provides:

"SECTION 2. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Amendment Notes — The 2014 amendment, in the first version, added the last sentence in (f) and made a minor stylistic change.

ATTORNEY GENERAL OPINIONS

Bond proceeds issued under Section 57-10-401 et seq. are, by virtue of Section 57-10-433, not subject to State Treasurer's Regulation Number 1. Rule, March 17, 1994, A.G. Op. #94-0123.

A board of supervisors may adopt a resolution of intent to grant tax exemptions in the future and may impose conditions for such grant to occur upon the occurrence of specified events. Yancey, May 1, 1998, A.G. Op. #98-0237.

§ 57-10-403. Legislative findings and declarations [Repealed effective October 1, 2015].

(1) The Legislature finds and declares that the general welfare and material well-being of citizens of the state depend in large measure upon the development and growth of industry in the state.

(2) The Legislature finds and declares further that it is in the best interest of the state to induce the location or expansion of manufacturing facilities within this state in order to advance the public purposes of relieving unemployment by creating new jobs within this state that, but for the inducements to be offered by the corporation to approved companies as herein provided, would not exist, and of creating new sources of tax revenues for the support of the public services provided by this state and country.

(3) The Legislature finds and declares further that the authority granted by this article and the purposes to be accomplished hereby are proper governmental and public purposes for which public monies may be expended, and that the inducement of the location or expansion of manufacturing facilities within the state is of paramount importance, mandating that the provisions of this article be liberally construed and applied in order to advance the public purposes.

SOURCES: Laws, 1993, ch. 565, § 2; reenacted without change, Laws, 1997, ch. 576, § 2; reenacted without change, Laws, 2000, ch. 425, § 2; reenacted without change, Laws, 2001, ch. 337, § 2; reenacted without change, Laws, 2005, ch. 399, § 2; reenacted without change, Laws, 2007, ch. 389, § 2; reenacted without change, Laws, 2011, ch. 519, § 2, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.

This section was reenacted without change by Laws of 2007, ch. 389, effective from and after October 1, 2007.

This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011.

§ 57-10-405. General powers and duties of corporation [Repealed effective October 1, 2015].

In addition to its other powers and duties, the corporation shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of Sections 57-10-401 through 57-10-445, including, but without limiting the generality of the foregoing, the power:

(a) To provide and finance economic development projects under the provisions of Sections 57-10-401 through 57-10-445, and cooperate with counties, municipalities and eligible companies in order to promote, foster and support economic development within the counties and municipalities;

(b) To conduct hearings and inquiries, in the manner and by the methods as it deems desirable, including, without limitation, appointment of special committees, for the purpose of gathering information with respect to counties, municipalities, eligible companies and economic development projects, for the purpose of making any determinations necessary or desirable in the furtherance of Sections 57-10-401 through 57-10-445;

(c) To negotiate the terms of, and enter into financing agreements with, approved companies, and in connection therewith to acquire, convey, sell, own, lease, mortgage, finance, foreclose or otherwise dispose of any property, real or personal, in connection with an economic development project, and to pay, or cause to be paid, in accordance with the provisions of a financing agreement, the approved costs of an economic development project from any funds available therefor, including, without limitation, funds available as the result of the issuance of bonds under the Mississippi Small Enterprise Development Finance Act;

(d) To delegate to the executive director the rights and powers of the corporation required for the proper and desirable execution of the purposes of this article;

(e) To consent, if it deems it necessary or desirable in the fulfillment of its purposes, to the modification of the terms of any financing agreements of any kind to which the corporation is a party;

(f) To include in any borrowing the amounts deemed necessary by the corporation to pay financing charges, consultant, advisory and legal fees, fees for bond insurance, letters of credit or other forms of credit enhancement, investment advisory fees, trustees' fees and other expenses necessary or incident to the borrowing;

(g) To make and publish administrative regulations respecting its programs and other administrative regulations necessary or appropriate to effectuate the purposes of Sections 57-10-401 through 57-10-445, and necessary to administer the procedures and program as provided for in Sections 57-10-401 through 57-10-445;

(h) To make, execute and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary or appropriate to accomplish the purposes of Sections 57-10-401 through 57-10-445, including any financing agreements with state agencies or any political subdivisions of the state under which funds may be pledged by or to the corporation for the payment of its bonds;

(i) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance and any other aid from any source and to agree to, and to comply with, conditions attached thereto;

(j) To sue and be sued in its own name, plead and be impleaded; and

(k) To invest any funds held by the corporation or its agents or trustees, under Sections 57-10-401 through 57-10-445, including, but not limited to, the proceeds of bonds issued under Sections 57-10-401 through 57-10-445, reserve or other funds, or any monies not required for immediate disbursement, and the investment income on any of the foregoing, in obligations authorized by Sections 57-10-401 through 57-10-445.

SOURCES: Laws, 1993, ch. 565, § 3; reenacted without change, Laws, 1997, ch. 576, § 3; reenacted without change, Laws, 2000, ch. 425, § 3; reenacted without change, Laws, 2001, ch. 337, § 3; reenacted without change, Laws, 2005, ch. 399, § 3; reenacted without change, Laws, 2007, ch. 389, § 3; reenacted without change, Laws, 2011, ch. 519, § 3, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.

This section was reenacted without change by Laws of 2007, ch. 389, effective from and after October 1, 2007.

This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011.

§ 57-10-407. Power of corporation to accept and expend monies [Repealed effective October 1, 2015].

The corporation may accept and expend: (a) monies which may be appropriated from time to time by the Legislature; (b) monies which may be available under the Mississippi Small Enterprise Development Finance Act; or (c) monies which may be received from any source, including income from the corporation's operations, under Sections 57-10-401 through 57-10-445, for effectuating the purposes of Sections 57-10-401 through 57-10-445, including, without limitation, the payment of the expenses of administration and operation incurred pursuant to Sections 57-10-401 through 57-10-445 and the establishment and, if deemed desirable, maintenance of a reserve or contingency fund for the administration of Sections 57-10-401 through 57-10-445.

SOURCES: Laws, 1993, ch. 565, § 4; reenacted without change, Laws, 1997, ch. 576, § 4; reenacted without change, Laws, 2000, ch. 425, § 4; reenacted without change, Laws, 2001, ch. 337, § 4; reenacted without change, Laws, 2005, ch. 399, § 4; reenacted without change, Laws, 2007, ch. 389, § 4; reenacted without change, Laws, 2011, ch. 519, § 4, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.

This section was reenacted without change by Laws of 2007, ch. 389, effective from and after October 1, 2007.

This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011.

§ 57-10-409. Financing agreements [Repealed effective October 1, 2015].

[In cases involving an economic development project for which the Mississippi Business Finance Corporation has issued bonds for the purpose of financing the approved costs of such project prior to July 1, 1994, this section shall read as follows:]

The corporation may enter into, with any approved company, a financing agreement with respect to its economic development project. The terms and provisions of each financing agreement shall be determined by negotiations between the corporation and the approved company, except that each financing agreement shall include the following provisions:

(a) If the corporation issues any bonds in connection with an economic development project, the term of the financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and may grant to the approved company an option to purchase the economic development project from the corporation upon the termination of the financing agreement for such consideration and under such terms and conditions the corporation may approve. Nothing in this paragraph shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise.

(b) If the corporation issues any bonds in connection with an economic development project, the financing agreement shall specify that the annual obligations of the approved company under Sections 57-10-401 through 57-10-445 shall equal in each year at least the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.

(c) If the corporation loans funds to an approved company that is a private company under the Mississippi Small Enterprise Development Finance Act, the financing agreement shall include the terms and conditions of the loan required by Section 57-71-1 et seq.

(d)(i) In consideration for financing agreement payment, the approved company may be permitted the following during the period of time in which the financing agreement is in effect, not to exceed twenty-five (25) years:

1. A tax credit on the amount provided for in Section 27-7-22.3(2), Mississippi Code of 1972; plus

2. The aggregate assessment withheld by the approved company in each year.

(ii) The income tax credited to the approved company referred to herein shall be credited in the fiscal year of the financing agreement in which the tax return of the approved company is filed. The approved company shall not be required to pay estimated tax payments under Section 27-7-319, Mississippi Code of 1972.

(e)(i) The financing agreement shall provide that the assessments, when added to the credit for the state corporate income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year; however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

(ii) If during any fiscal year of the financing agreement the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of the fiscal year of the financing agreement.

(f) The financing agreement shall provide that:

(i) It may be assigned by the approved company only upon the prior written consent of the corporation following the adoption of a resolution by the corporation to such effect; and

(ii) Upon the default by the approved company in the obligation to render its annual payment, the corporation shall have the right, at its option, to declare the financing agreement in default and to accelerate the total of all annual payments that are to be made or to terminate the financing agreement and cause to be sold the economic development project at public or private sale, or to pursue any other remedies available under the Uniform Commercial Code, as from time to time amended, or otherwise available in law or equity.

[In cases involving an economic development project for which the Mississippi Business Finance Corporation has not issued bonds for the purpose of financing the approved costs of such project prior to July 1, 1994, but has issued bonds for such project prior to July 1, 1997, or in cases involving an economic development project which has been induced by a resolution of the Board of Directors of the Mississippi Business Finance Corporation that has been filed with the State Tax Commission prior to July 1, 1997, this section shall read as follows:]

The corporation may enter into, with any approved company, a financing agreement with respect to its economic development project. The terms and provisions of each financing agreement shall be determined by negotiations between the corporation and the approved company, except that each financing agreement shall include the following provisions:

(a) If the corporation issues any bonds in connection with an economic development project, the term of the financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and may grant to the approved company an option to purchase the economic development project from the corporation upon the termination of the financing agreement for such consideration and under such terms and conditions the corporation may approve. Nothing in this paragraph shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise.

(b) If the corporation issues any bonds in connection with an economic development project, the financing agreement shall specify that the annual obligations of the approved company under Sections 57-10-401 through 57-10-445 shall equal in each year at least the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.

(c) If the corporation loans funds to an approved company that is a private company under the Mississippi Small Enterprise Development Finance Act, the financing agreement shall include the terms and conditions of the loan required by Section 57-71-1 et seq.

(d)(i) In consideration for financing agreement payment, the approved company may be permitted the following during the period of time in which the financing agreement is in effect, not to exceed twenty-five (25) years:

1. A tax credit on the amount provided for in Section 27-7-22.3(2), Mississippi Code of 1972; plus

2. The aggregate assessment withheld by the approved company in each year.

(ii) The income tax credited to the approved company referred to herein shall be credited in the fiscal year of the financing agreement in which the tax return of the approved company is filed. The approved company shall not be required to pay estimated tax payments under Section 27-7-319, Mississippi Code of 1972.

(e)(i) The financing agreement shall provide that the assessments, when added to the credit for the state corporate income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year; however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years not to exceed three

(3) years following the termination of the period of time during which the financing agreement is in effect.

(ii) If during any fiscal year of the financing agreement the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of the fiscal year of the financing agreement.

(f) The financing agreement shall provide that:

(i) It may be assigned by the approved company only upon the prior written consent of the corporation following the adoption of a resolution by the corporation to such effect; and

(ii) Upon the default by the approved company in the obligation to render its annual payment, the corporation shall have the right, at its option, to declare the financing agreement in default and to accelerate the total of all annual payments that are to be made or to terminate the financing agreement and cause to be sold the economic development project at public or private sale, or to pursue any other remedies available under the Uniform Commercial Code, as from time to time amended, or otherwise available in law or equity.

[In cases involving an economic development project for which the Mississippi Business Finance Corporation has not issued bonds for the purpose of financing the approved costs of such project prior to July 1, 1997, or in cases involving an economic development project which has not been induced by a resolution of the Board of Directors of the Mississippi Business Finance Corporation that has been filed with the State Tax Commission prior to July 1, 1997, this section shall read as follows:]

The corporation may enter into, with any approved company, a financing agreement with respect to its economic development project. The terms and provisions of each financing agreement shall be determined by negotiations between the corporation and the approved company, except that each financing agreement shall include the following provisions:

(a) If the corporation issues any bonds in connection with an economic development project, the term of the financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and may grant to the approved company an option to purchase the economic development project from the corporation upon the termination of the financing agreement for such consideration and under such terms and conditions the corporation may approve. Nothing in this paragraph shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise.

(b) If the corporation issues any bonds in connection with an economic development project, the financing agreement shall specify that the annual obligations of the approved company under Sections 57-10-401 through 57-10-445 shall equal in each year at least the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.

(c) If the corporation loans funds to an approved company that is a private company under the Mississippi Small Enterprise Development Finance Act, the financing agreement shall include the terms and conditions of the loan required by Section 57-71-1 et seq.

(d)(i) In consideration for financing agreement payment, the approved company may be permitted a tax credit on the amount provided for in Section 27-7-22.3(2), Mississippi Code of 1972, during the period of time in which the financing agreement is in effect, not to exceed twenty-five (25) years.

(ii) The income tax credited to the approved company referred to herein shall be credited in the fiscal year of the financing agreement in which the tax return of the approved company is filed. The approved company shall not be required to pay estimated tax payments under Section 27-7-319, Mississippi Code of 1972.

(e) The financing agreement shall provide that:

(i) It may be assigned by the approved company only upon the prior written consent of the corporation following the adoption of a resolution by the corporation to such effect; and

(ii) Upon the default by the approved company in the obligation to render its annual payment, the corporation shall have the right, at its option, to declare the financing agreement in default and to accelerate the total of all annual payments that are to be made or to terminate the financing agreement and cause to be sold the economic development project at public or private sale, or to pursue any other remedies available under the Uniform Commercial Code, as from time to time amended, or otherwise available in law or equity.

SOURCES: Laws, 1993, ch. 565, § 5; Laws, 1994, ch. 340, § 3; Laws, 1994, ch. 525, § 3; Laws, 1997, ch. 576, § 5; reenacted without change, Laws, 2000, ch. 425, § 5; reenacted without change, Laws, 2001, ch. 337, § 5; reenacted without change, Laws, 2005, ch. 399, § 5; reenacted without change, Laws, 2007, ch. 389, § 5; reenacted without change, Laws, 2011, ch. 519, § 5, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.

Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011.

Cross References — Section as creating exception to obligation of corporate taxpayers to file estimated tax returns and make payments thereon, see § 27-7-319.

Uniform Commercial Code, see §§ 75-1-101 et seq.

§ 57-10-411. Certification of company's state income tax liability and amount of tax credits [Repealed effective October 1, 2015].

Ninety (90) days after the filing of the tax return of the approved company, the State Tax Commission shall certify to the corporation the state income tax liability for the preceding year of each approved company with respect to an economic development project financed under Sections 57-10-401 through 57-10-445, and the amounts of any tax credits taken under Sections 57-10-401 through 57-10-445.

SOURCES: Laws, 1993, ch. 565, § 6; reenacted without change, Laws, 1997, ch. 576, § 6; reenacted without change, Laws, 2000, ch. 425, § 6; reenacted without change, Laws, 2001, ch. 337, § 6; reenacted without change, Laws, 2005, ch. 399, § 6; reenacted without change, Laws, 2007, ch. 389, § 6; reenacted without change, Laws, 2011, ch. 519, § 6, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.

Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011.

Cross References — Department of Revenue generally, see §§ 27-3-1 et seq.

§ 57-10-413. Job development assessment fee [Repealed effective October 1, 2015].

[In cases involving an economic development project for which the Mississippi Business Finance Corporation has issued bonds for the purpose of financing the approved costs of such project prior to July 1, 1994, this section shall read as follows:]

(1) The approved company may require that each employee whose gross wages are equivalent to Five Dollars ($5.00) or more per hour, as a condition of employment, agrees to pay a job development assessment fee not to exceed a certain percentage of the gross wages of each such employee whose job was created as a result of the economic development project, for the purpose of retiring the bonds which fund the economic development project or other indebtedness. The job development assessment fee shall not exceed the following percentages of the gross wages of the employee:

(a) Two percent (2%), if the gross wages of the employee are equivalent to Five Dollars ($5.00) or more per hour but less than Seven Dollars ($7.00) per hour;

(b) Four percent (4%), if the gross wages of the employee are equivalent to Seven Dollars ($7.00) or more per hour but less than Nine Dollars ($9.00) per hour; and

(c) Six percent (6%), if the gross wages of the employee are equivalent to Nine Dollars ($9.00) or more per hour.

(2) Each employee so assessed shall be entitled to credits against Mississippi income taxes as provided in Section 27-7-22.3.

(3) If an approved company shall elect to impose the assessment as a condition of employment, it shall deduct the assessment from each paycheck of each employee.

(4) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the corporation at such reasonable times as the corporation shall request and shall file with the corporation documentation respecting the assessment as the corporation may require.

(5) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project under subsection (1) of this section shall lapse on the date the bonds are retired.

[In cases involving an economic development project for which the Mississippi Business Finance Corporation has not issued bonds for the purpose of financing the approved costs of such project prior to July 1, 1994, but has issued bonds for such project prior to July 1, 1997, or in cases involving an economic development project which has been induced by a resolution of the Board of Directors of the Mississippi Business Finance Corporation that has been filed with the State Tax Commission prior to July 1, 1997, this section shall read as follows:]

(1) Except as otherwise provided for in subsection (6) of this section, the approved company may require that each employee whose gross wages are equivalent to Five Dollars ($5.00) or more per hour, as a condition of employment, agrees to pay a job development assessment fee not to exceed a certain percentage of the gross wages of each such employee whose job was created as a result of the economic development project, for the purpose of retiring the bonds which fund the economic development project or other indebtedness. The job development assessment fee shall not exceed the following percentages of the gross wages of the employee:

(a) Two percent (2%), if the gross wages of the employee are equivalent to Five Dollars ($5.00) or more per hour but less than Seven Dollars ($7.00) per hour;

(b) Four percent (4%), if the gross wages of the employee are equivalent to Seven Dollars ($7.00) or more per hour but less than Nine Dollars ($9.00) per hour; and

(c) Six percent (6%), if the gross wages of the employee are equivalent to Nine Dollars ($9.00) or more per hour.

(2) Each employee so assessed shall be entitled to credits against Mississippi income taxes as provided in Section 27-7-22.3.

(3) If an approved company shall elect to impose the assessment as a condition of employment, it shall deduct the assessment from each paycheck of each employee.

(4) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the corporation at such reasonable times as the corporation shall request and shall file with the corporation documentation respecting the assessment as the corporation may require.

(5) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project under subsection (1) of this section shall lapse on the date the bonds are retired.

(6) If an eligible company closes a facility in this state and becomes an approved company under the provisions of Sections 57-10-401 through 57-10-449, only those jobs created in excess of those that existed at the closed facility at the time of the closure shall be eligible for the imposition of the job development assessment fee. The Mississippi Business Finance Corporation shall promulgate rules and regulations to govern the determination of the number of jobs upon which the job development assessment fee may be imposed.

SOURCES: Laws, 1993, ch. 565, § 7; Laws, 1994, ch. 525, § 4; Laws, 1997, ch. 576, § 7; reenacted without change, Laws, 2000, ch. 425, § 7; reenacted without change, Laws, 2001, ch. 337, § 7; reenacted without change, Laws, 2005, ch. 399, § 7; reenacted without change, Laws, 2007, ch. 389, § 7; reenacted without change, Laws, 2011, ch. 519, § 7, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.

Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011.

§ 57-10-415. Payment of revenue bonds; security [Repealed effective October 1, 2015].

Every issue of bonds under Sections 57-10-401 through 57-10-445 shall be payable solely out of any revenues of the corporation as provided in Sections 57-10-401 through 57-10-445. The bonds additionally may be secured by a pledge of any grant, contribution or guarantee from the federal government or any person or a pledge by the corporation of any revenues from any source.

SOURCES: Laws, 1993, ch. 565, § 8; reenacted without change, Laws, 1997, ch. 576, § 8; reenacted without change, Laws, 2000, ch. 425, § 8; reenacted without change, Laws, 2001, ch. 337, § 8; reenacted without change, Laws, 2005, ch. 399, § 8; reenacted without change, Laws, 2007, ch. 389, § 8; reenacted without change, Laws, 2011, ch. 519, § 8, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.
This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011.

§ 57-10-417. Bonds as limited obligation of corporation; personal liability of member or officer of corporate board [Repealed effective October 1, 2015].

The bonds issued by the corporation under Sections 57-10-401 through 57-10-445 shall be limited obligations of the corporation and shall not constitute a debt, liability or general obligation of the state or any political subdivision thereof (other than the corporation), or a pledge of the faith and credit of the state or any political subdivision thereof (other than the corporation), but shall be payable solely as provided by the corporation under Sections 57-10-401 through 57-10-445. No member or officer of the board of directors of the corporation nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. Each bond issued under Sections 57-10-401 through 57-10-445 shall contain on the face thereof a statement that neither the state, nor any other political subdivision thereof, shall be obligated to pay the same or the interest thereon or other costs incident thereto except from the revenue or money pledged by the corporation and that neither the faith and credit nor the taxing power of the state or any political subdivision thereof is pledged to the payment of the principal of, or the interest on, such bond.

SOURCES: Laws, 1993, ch. 565, § 9; reenacted without change, Laws, 1997, ch. 576, § 9; reenacted without change, Laws, 2000, ch. 425, § 9; reenacted without change, Laws, 2001, ch. 337, § 9; reenacted without change, Laws, 2005, ch. 399, § 9; reenacted without change, Laws, 2007, ch. 389, § 9; reenacted without change, Laws, 2011, ch. 519, § 9, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.
This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011.

§ 57-10-419. Issuance of bonds generally; use of proceeds; interim receipts, temporary certificates, replacement certificates [Repealed effective October 1, 2015].

(1) The corporation may issue in its own name, from time to time, for the purpose of financing the approved costs of an economic development project, its bonds and may pledge for the payment thereof funds derived in respect of any

financing agreement or other arrangement entered into by the corporation and an approved company under Sections 57-10-401 through 57-10-445.

(2) In anticipation of the issuance of bonds, the corporation may provide for the issuance, at one time or from time to time, of bond anticipation notes. The principal of and the interest on the notes shall be payable solely from the funds herein provided for the payment. Any notes may be made payable from the proceeds of bonds or renewal notes; or, if bond or renewal note proceeds are not available, the notes may be paid from any available revenues or assets of the corporation.

(3) The bonds issued under Sections 57-10-401 through 57-10-445 shall be authorized by a resolution of the corporation, shall bear such date or dates, and shall mature at such time or times as such resolution may provide, except that no bond shall mature more than twenty-five (25) years from the date of issue. Bonds which are not subject to taxation shall bear interest at such rate or rates, be in such denominations, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption, including redemption before maturity, as such resolution may provide. Except as expressly provided otherwise in Sections 57-10-401 through 57-10-445, the provisions of other laws of the state relating to the issuance of revenue bonds shall not apply to bonds issued by the corporation. As to bonds issued hereunder and designated as taxable bonds by the corporation, any immunity to taxation by the United States government of interest on such bonds or notes is hereby waived. Bonds of the corporation may be sold by the corporation at public or private sale, from time to time, and at such price or prices as the corporation shall determine.

(4) The proceeds of any bonds shall be used solely for the purposes for which issued and shall be disbursed in the manner and under the restrictions, if any, that the corporation may provide in the resolution authorizing the issuance of the bonds or in a trust indenture securing the same.

(5) The principal and interest on the bonds issued by the corporation shall be payable solely and only from proceeds derived under a financing agreement and shall be secured solely by the economic development project, the proceeds of the financing agreement, and such other assets as may be available, but not including revenues of the state.

(6) Before the preparation of definitive certificates evidencing the bonds, the corporation may issue, under like restrictions, interim receipts or temporary certificates, with or without coupons, exchangeable for definitive certificates when the certificates have been executed and are available for delivery. The corporation may also provide for the replacement of any certificates which become mutilated or are destroyed or lost.

SOURCES: Laws, 1993, ch. 565, § 10; reenacted without change, Laws, 1997, ch. 576, § 10; reenacted without change, Laws, 2000, ch. 425, § 10; reenacted without change, Laws, 2001, ch. 337, § 10; reenacted without change, Laws, 2005, ch. 399, § 10; reenacted without change, Laws, 2007, ch. 389,

§ 10; reenacted without change, Laws, 2011, ch. 519, § 10, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.

This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011.

Cross References — Additional provisions regarding resolutions authorizing issuance of bonds, see § 57-10-421.

§ 57-10-421. Additional provisions in bond issue resolution [Repealed effective October 1, 2015].

In addition to the requirements provided for in Section 57-10-419, any resolution authorizing the issuance of bonds under Sections 57-10-401 through 57-10-445 may contain provisions as to:

(a) The setting aside of reserves or sinking funds and the regulations and disposition thereof;

(b) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding or other bonds;

(c) The procedure, if any, by which the terms of any of the proceedings under which the bonds are being issued may be amended or abrogated, the number or percentage of bondholders who or which must consent thereto, and the manner in which the consent may be given;

(d) The vesting in a trustee or trustees of such property, rights, powers and duties in trust as the company may determine, and limiting or abrogating the right of bondholders to appoint a trustee or limiting the rights, powers and duties of the trustee;

(e) Defining the act or omissions to act which shall constitute a default and the obligations or duties of the corporation to the holders of the bonds, and providing for the rights and remedies of the holders of the bonds in the event of default, which rights and remedies may include the general laws of the state and other provisions of Sections 57-10-401 through 57-10-445; or

(f) Any other matter, of like or different character, which in any way affects the security or protection of the holders of the bonds.

SOURCES: Laws, 1993, ch. 565, § 11; reenacted without change, Laws, 1997, ch. 576, § 11; reenacted without change, Laws, 2000, ch. 425, § 11; reenacted without change, Laws, 2001, ch. 337, § 11; reenacted without change, Laws, 2005, ch. 399, § 11; reenacted without change, Laws, 2007, ch. 389, § 11; reenacted without change, Laws, 2011, ch. 519, § 11, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.

This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011.

§ 57-10-423. Pledge made by corporation; recording of resolution or other instrument [Repealed effective October 1, 2015].

Any pledge made by the corporation shall be valid and binding from the time when the pledge was made. The revenues or properties so pledged and thereafter received by the corporation shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether the parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

SOURCES: Laws, 1993, ch. 565, § 12; reenacted without change, Laws, 1997, ch. 576, § 12; reenacted without change, Laws, 2000, ch. 425, § 12; reenacted without change, Laws, 2001, ch. 337, § 12; reenacted without change, Laws, 2005, ch. 399, § 12; reenacted without change, Laws, 2007, ch. 389, § 12; reenacted without change, Laws, 2011, ch. 519, § 12, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.

This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011.

§ 57-10-425. Purchase of bonds by corporation [Repealed effective October 1, 2015].

The corporation, subject to the provisions in proceedings relating to outstanding bonds as may then exist, may purchase bonds out of any funds available therefor, which shall thereupon be canceled, at any reasonable price which, if the bonds are then redeemable, shall not exceed the redemption price (and premium, if any) then applicable plus accrued interest to the redemption date thereof.

SOURCES: Laws, 1993, ch. 565, § 13; reenacted without change, Laws, 1997, ch. 576, § 13; reenacted without change, Laws, 2000, ch. 425, § 13; reenacted without change, Laws, 2001, ch. 337, § 13; reenacted without change, Laws, 2005, ch. 399, § 13; reenacted without change, Laws, 2007, ch. 389, § 13; reenacted without change, Laws, 2011, ch. 519, § 13, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.

This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011.

§ 57-10-427. Trust indentures [Repealed effective October 1, 2015].

The bonds may be secured by an indenture by and between the corporation and a corporate trustee which may be any bank or other corporation having the power of a trust company or any trust company within or without this state. Such indenture may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the corporation in relation to the exercise of its powers and the custody, safekeeping and application of all money. The corporation may provide by the indenture for the payment of the proceeds of the bonds and revenues to the trustee under the indenture or other depository, and for the method of disbursement thereof, with such safeguards and restrictions as the corporation may determine. If the bonds shall be secured by an indenture, the bondholders shall have no authority to appoint a separate trustee to represent them.

SOURCES: Laws, 1993, ch. 565, § 14; reenacted without change, Laws, 1997, ch. 576, § 14; reenacted without change, Laws, 2000, ch. 425, § 14; reenacted without change, Laws, 2001, ch. 337, § 14; reenacted without change, Laws, 2005, ch. 399, § 14; reenacted without change, Laws, 2007, ch. 389, § 14; reenacted without change, Laws, 2011, ch. 519, § 14, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.

This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011.

§ 57-10-429. Signatures on bonds [Repealed effective October 1, 2015].

In the event that any of the members or officers of the board of directors of the corporation shall cease to be members or officers of the board prior to the delivery of any bonds signed by them, their signatures or facsimiles thereof shall nevertheless be valid and sufficient for all purposes, the same as if such members or officers had remained in office until such delivery.

SOURCES: Laws, 1993, ch. 565, § 15; reenacted without change, Laws, 1997, ch. 576, § 15; reenacted without change, Laws, 2000, ch. 425, § 15; reenacted without change, Laws, 2001, ch. 337, § 15; reenacted without change, Laws, 2005, ch. 399, § 15; reenacted without change, Laws, 2007, ch. 389, § 15; reenacted without change, Laws, 2011, ch. 519, § 15, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.

This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011.

§ 57-10-431. Establishment of funds and accounts [Repealed effective October 1, 2015].

The corporation may create and establish such funds and accounts as may be necessary or desirable for its purposes under Sections 57-10-401 through 57-10-445.

SOURCES: Laws, 1993, ch. 565, § 16; reenacted without change, Laws, 1997, ch. 576, § 16; reenacted without change, Laws, 2000, ch. 425, § 16; reenacted without change, Laws, 2001, ch. 337, § 16; reenacted without change, Laws, 2005, ch. 399, § 16; reenacted without change, Laws, 2007, ch. 389, § 16; reenacted without change, Laws, 2011, ch. 519, § 16, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.

This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011.

§ 57-10-433. Contracts with bondholders; securing of moneys held for payment of bonds [Repealed effective October 1, 2015].

The corporation shall have the power to contract with the holders of any of its bonds issued under Sections 57-10-401 through 57-10-445 as to the custody, collection, securing, investment and payment of any money of the corporation, and of any money held in trust or otherwise for the payment of bonds, and to carry out such contract. Money held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of money may be secured in the same manner as money of the corporation, and all banks and trust companies are authorized to give security for the deposits.

SOURCES: Laws, 1993, ch. 565, § 17; reenacted without change, Laws, 1997, ch. 576, § 17; reenacted without change, Laws, 2000, ch. 425, § 17; reenacted without change, Laws, 2001, ch. 337, § 17; reenacted without change, Laws, 2005, ch. 399, § 17; reenacted without change, Laws, 2007, ch. 389, § 17; reenacted without change, Laws, 2011, ch. 519, § 17, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.

This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011.

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Bond proceeds issued under Section 57-10-401 et seq. are, by virtue of Section 57-10-433, not subject to State Treasurer's Regulation Number 1. Rule, March 17, 1994, A.G. Op. #94-0123.

§ 57-10-435. Effect of amendments to Sections 57-10-401 through 57-10-445 enacted after July 1, 1993 [Repealed effective October 1, 2015].

Amendments to Sections 57-10-401 through 57-10-445, enacted after July 1, 1993, shall not limit the rights vested in the corporation with respect to any agreements made with, or remedies available to, the holders of bonds issued under this article or Section 27-7-22.3 prior to the enactment of the amendments until the bonds, together with all interest thereon, and all costs and expenses in connection with any proceeding by or on behalf of the holders, are fully met and discharged.

SOURCES: Laws, 1993, ch. 565, § 18; reenacted without change, Laws, 1997, ch. 576, § 18; reenacted without change, Laws, 2000, ch. 425, § 18; reenacted without change, Laws, 2001, ch. 337, § 18; reenacted without change, Laws, 2005, ch. 399, § 18; reenacted without change, Laws, 2007, ch. 389, § 18; reenacted without change, Laws, 2011, ch. 519, § 18, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.
This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011.

§ 57-10-437. Payment of expenses of corporation; limitation on liability [Repealed effective October 1, 2015].

All expenses incurred by the corporation in carrying out the provisions of Sections 57-10-401 through 57-10-445 shall be payable solely from funds provided under Sections 57-10-401 through 57-10-445, or other funds of the corporation. Nothing in Sections 57-10-401 through 57-10-445 shall be construed to authorize the corporation to incur indebtedness or liability on behalf of or payable by the state or any other political subdivision thereof.

SOURCES: Laws, 1993, ch. 565, § 19; reenacted without change, Laws, 1997, ch. 576, § 19; reenacted without change, Laws, 2000, ch. 425, § 19; reenacted without change, Laws, 2001, ch. 337, § 19; reenacted without change, Laws, 2005, ch. 399, § 19; reenacted without change, Laws, 2007, ch. 389, § 19; reenacted without change, Laws, 2011, ch. 519, § 19, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.
This section was reenacted without change by Laws of 2011, ch. 519, effective July 1, 2011.

§ 57-10-439. Exemption from taxation of income, profits, revenues, bonds, mortgages, deeds of trust and other agreements of corporation [Repealed effective October 1, 2015].

(1) The corporation is hereby declared to be performing a public function and to be a public body corporate and a political subdivision of the state. Accordingly, the income, including any profit made on the sale thereof from all bonds issued by the corporation, shall at all times be exempt from all taxation by the state or any political subdivision thereof. If, after all indebtedness and other obligations of the corporation are discharged, the corporation is dissolved, its remaining assets shall inure to the benefit of the state.

(2) With the approval of the appropriate local taxing authority, all mortgages or deeds of trust executed as security therefor, all lease or purchase agreements made pursuant to the provisions hereof, and all purchases required to establish the industrial enterprise and financed by proceeds from

bonds issued under Sections 57-10-401 through 57-10-445, shall likewise be exempt from all taxation in the State of Mississippi except the contractors' tax imposed by Section 27-65-21 and the tax levied by Section 27-65-24(1)(b), and except ad valorem taxes levied for school district purposes. All projects and the revenue derived therefrom from any lease thereof shall be exempt from all taxation in the State of Mississippi, except the tax levied by Sections 27-65-21 and 27-65-24(1)(b), except the tax levied under Chapter 7, Title 27, Mississippi Code of 1972, and except ad valorem taxes levied for school district purposes.

SOURCES: Laws, 1993, ch. 565, § 20; Laws, 1994, ch. 525, § 5; reenacted without change, Laws, 1997, ch. 576, § 20; reenacted without change, Laws, 2000, ch. 425, § 20; reenacted without change, Laws, 2001, ch. 337, § 20; reenacted without change, Laws, 2005, ch. 399, § 20; reenacted without change, Laws, 2007, ch. 389, § 20; Laws, 2010, ch. 449, § 8; reenacted without change, Laws, 2011, ch. 519, § 20, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.

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The first phase of subsection (2) makes exemptions thereunder discretionary with the county board of supervisors. Trapp, Jr., May 16, 2002, A.G. Op. #02-0.

§ 57-10-441. Investment in bonds; bonds as security for deposits [Repealed effective October 1, 2015].

The bonds issued by and under the authority of Sections 57-10-401 through 57-10-445 by the corporation are declared to be legal investments in which all public officers or public bodies of the state, its political subdivisions, all municipalities and municipal subdivisions, all insurance companies and associations, and other persons carrying on insurance business, all banks, bankers, banking associations, trust companies, savings associations, including savings and loan associations, building and loan associations, investment companies, and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons who are now or may later be authorized to invest in bonds or in other obligations of the state, may invest funds, including capital, in their control or belonging to them. Such bonds are also hereby made securities which may be deposited with and received by all public officers and bodies of the state or any agency or political subdivision of the state and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the state is now or may be later authorized by law.

SOURCES: Laws, 1993, ch. 565, § 21; reenacted without change, Laws, 1997, ch. 576, § 21; reenacted without change, Laws, 2000, ch. 425, § 21; reenacted without change, Laws, 2001, ch. 337, § 21; reenacted without change, Laws, 2005, ch. 399, § 21; reenacted without change, Laws, 2007, ch. 389, § 21; reenacted without change, Laws, 2011, ch. 519, § 21, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.

§ 57-10-443. Annual report of corporation [Repealed effective October 1, 2015].

The corporation, within one hundred twenty (120) days of the close of each fiscal year, shall submit an annual report of its activities in regard to Sections 57-10-401 through 57-10-445 for the preceding year to the Governor. The Clerk of the House of Representatives and the Secretary of the Senate each shall receive a copy of the report by making a request for it to the corporation. Each report shall set forth a complete operating and financial statement in regard to Sections 57-10-401 through 57-10-445 for the corporation during the fiscal year it covers.

SOURCES: Laws, 1993, ch. 565, § 22; reenacted without change, Laws, 1997, ch. 576, § 22; reenacted without change, Laws, 2000, ch. 425, § 22; reenacted without change, Laws, 2001, ch. 337, § 22; reenacted without change, Laws, 2005, ch. 399, § 22; reenacted without change, Laws, 2007, ch. 389, § 22; reenacted without change, Laws, 2011, ch. 519, § 22, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.

§ 57-10-445. Construction of Sections 57-10-401 through 57-10-445 [Repealed effective October 1, 2015].

Nothing contained in Sections 57-10-401 through 57-10-445 is to be construed as a restriction or limitation upon any powers which the corporation might otherwise have under any other law of the state. Insofar as the provisions of Sections 57-10-401 through 57-10-445 are inconsistent with the provisions of any other law, the provisions of Sections 57-10-401 through 57-10-445 shall be controlling, and the powers conferred by Sections 57-10-401 through 57-10-445 shall be regarded as supplemental and additional to powers conferred by any other laws. No proceedings, notice or approval shall be required for the issuance of any bonds or any instrument or the security therefor, except as provided in Sections 57-10-401 through 57-10-445.

The provisions of Sections 57-10-401 through 57-10-445 shall be liberally construed to accomplish the purposes of Sections 57-10-401 through 57-10-445.

The powers granted and the duties imposed in Sections 57-10-401 through 57-10-445 shall be construed to be independent and severable. If any one or more sections, subsections, sentences or parts of any of Sections 57-10-401 through 57-10-445 shall be adjudged unconstitutional or invalid, such adjudication shall not affect, impair or invalidate the remaining provisions thereof, but shall be confined in its operation to the specific provisions so held unconstitutional or invalid.

SOURCES: Laws, 1993, ch. 565, § 23; reenacted without change, Laws, 1997, ch. 576, § 23; reenacted without change, Laws, 2000, ch. 425, § 23; reenacted without change, Laws, 2001, ch. 337, § 23; reenacted without change,

Laws, 2005, ch. 399, § 23; reenacted without change, Laws, 2007, ch. 389, § 23; reenacted without change, Laws, 2011, ch. 519, § 23, eff from and after July 1, 2011.

Editor's Note — For repeal date of this section, see § 57-10-449.

§ 57-10-447. Deriving of pecuniary benefit or income by public official, member of Legislature, or partner or associate or family member of legislator.

No elected or appointed official shall derive any pecuniary benefit, directly or indirectly, as a result of such elected or appointed official's duties under Sections 57-10-401 through 57-10-445. Any member of the Legislature, any elected or appointed official, any member of the immediate family of a member of the Legislature, or any partner or associate of such a member of the Legislature or elected or appointed official, shall not derive any income from the issuance of any bonds under Sections 57-10-401 through 57-10-445, contrary to the provisions of Section 109, Mississippi Constitution of 1890, or Article 3, Chapter 4, Title 25, Mississippi Code of 1972. The provisions of this section shall not apply to any person performing clerical or administrative functions, which are other than legal services provided by an attorney, that are associated with the issuance of any bonds under Sections 57-10-401 through 57-10-445, such as the printing of bonds or other materials. Any person convicted of a violation of this section shall be punished by imprisonment for not less than one (1) year and not more than five (5) years and a fine of not less than Two Thousand Five Hundred Dollars ($2,500.00) and not more than Ten Thousand Dollars ($10,000.00).

SOURCES: Laws, 1993, ch. 565, § 28, eff from and after July 1, 1993.

§ 57-10-449. Repeal of Sections 57-10-401 through 57-10-445 and 27-7-22.3.

Sections 57-10-401 through 57-10-445 and 27-7-22.3 shall be repealed from and after October 1, 2015.

SOURCES: Laws, 1993, ch. 565, § 29; Laws, 1996, ch. 553, § 7; Laws, 1997, ch. 576, § 26; Laws, 2000, ch. 425, § 25; Laws, 2001, ch. 337, § 25; reenacted and amended, Laws, 2005, ch. 399, § 25; Laws, 2007, ch. 389, § 25; Laws, 2011, ch. 519, § 25, eff from and after July 1, 2011.

ARTICLE 13.

MISSISSIPPI SMALL BUSINESS ASSISTANCE ACT.

SEC.
57-10-501. Short title.
57-10-503. Purpose.
57-10-505. Definitions.
57-10-507. Mississippi Small Business Assistance Program established; purpose.

57-10-509. Submission of grant applications to DECD.
57-10-511. Grants of funds by MDA.
57-10-513. General powers and duties of planning and development districts and qualified entities.
57-10-515. Engagement of professional services.
57-10-517. Adoption and publication of eligibility criteria for participation in program, timetable and process for review of applications, and other rules and regulations; adoption of uniform applications, forms, procedures, and requirements.
57-10-519. Certification of nondiscrimination.
57-10-521. Creation of Mississippi Small Business Assistance Fund; deposits; funds to be deposited in General Fund.
57-10-523. Redemption and cancellation of bonds; determination by Treasurer as to bond payments for following year; inclusion of information in budget by Governor; interest rate on assistance.
57-10-525. Limitation on borrowing; rate of interest on nontaxable bonds or notes; issuance, terms, and execution of general or limited obligation bonds; payment of principal and interest on bonds; tax exempt status.
57-10-527. Sale of bonds; registration.
57-10-529. Temporary borrowings by seller pending issuance of bonds of state.
57-10-531. Disposition of proceeds from sale of bonds and notes and available nonfederal funds.
57-10-533. Attorney General to represent seller in issuing, selling and validating bonds or notes.

§ 57-10-501. Short title.

This article shall be known and may be cited as the Mississippi Small Business Assistance Act.

SOURCES: Laws, 1993, ch. 566, § 1, eff from and after passage (approved April 19, 1993).

§ 57-10-503. Purpose.

It is the purpose of this article to promote economic and community development in the State of Mississippi through the planning and development districts in Mississippi by providing assistance for job creation and retention and small business development and to authorize the issuance of state bonds or notes for funding such assistance.

SOURCES: Laws, 1993, ch. 566, § 2, eff from and after passage (approved April 19, 1993).

§ 57-10-505. Definitions.

The following words and phrases when used in this article shall have the meaning given to them in this section unless the context clearly indicates otherwise:

(a) "Assistance" means a loan to a small business or an equity investment in a small business by a planning and development district in accordance with this article.

(b) "DECD" means the Mississippi Development Authority.

(c) "Equity investment" means an investment in the ownership of a small business incorporated in Mississippi by a planning and development district in accordance with this article.

(d) "General Fund" means the General Fund of the State of Mississippi.

(e) "Loan" means a loan by a planning and development district to a small business in accordance with this article.

(f) "MDA" means the Mississippi Development Authority.

(g) "Planning and development districts" means an organized planning and development district in Mississippi.

(h) "Program" means the Mississippi Small Business Assistance Program established in this article.

(i) "Qualified entities" means small business investment corporations, community development corporations and other similar entities approved by the Mississippi Business Finance Corporation to participate in the program.

(j) "Seller" means the State Bond Commission.

(k) "Small business" means any commercial enterprise with less than one hundred (100) full-time employees, less than Seven Million Dollars ($7,000,000.00) in net worth or less than Seven Hundred Fifty Thousand Dollars ($750,000.00) in net annual profit after taxes.

SOURCES: Laws, 1993, ch. 566, § 3; Laws, 2001, ch. 428, § 2; Laws, 2001, ch. 537, § 2; Laws, 2010, ch. 533, § 10, eff from and after passage (approved April 16, 2010.)

Joint Legislative Committee Note — Section 2 of ch. 428, Laws, 2001, effective from and after July 1, 2001 (approved March 13, 2001), amended this section. Section 2 of ch. 537, Laws, 2001, effective from and after July 1, 2001 (approved April 7, 2001), also amended this section. As set out above, this section reflects the language of Section 2 of ch. 537, Laws, 2001, pursuant to Section 3 of ch. 537, which specifically provides that the provisions in ch. 537 supersede those in ch. 428.

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

§ 57-10-507. Mississippi Small Business Assistance Program established; purpose.

There is hereby established, under the direction of DECD, a program to be known as the Mississippi Small Business Assistance Program for the purpose of making grants to the planning and development districts and qualified entities for their use in providing assistance to small businesses in accordance with this article for the purpose of creating and retaining jobs and small business development.

SOURCES: Laws, 1993, ch. 566, § 4, eff from and after passage (approved April 19, 1993).

Cross References — DECD defined as the Mississippi Development Authority, see § 57-10-505.

§ 57-10-509. Submission of grant applications to DECD.

(1) Any planning and development district or qualified entity desiring to participate in the program shall make application for a grant to DECD in a form satisfactory to DECD.

(2) The application must indicate that the planning and development district or qualified entity has established a small business assistance review board to review applications for assistance under the program and make recommendations thereon to the board of directors of the planning and development district or governing board of a qualified entity in accordance with this article. The planning and development district or qualified entity shall provide such other assurances of their ability to administer and manage the program in accordance with this article as may be reasonably required by DECD. An eligible community development corporation shall execute a memorandum of agreement with the planning and development district(s) having such jurisdiction as may be concurrent with that of the community development corporation.

SOURCES: Laws, 1993, ch. 566, § 5, eff from and after passage (approved April 19, 1993).

Cross References — DECD defined as the Mississippi Development Authority, see § 57-10-505.

§ 57-10-511. Grants of funds by MDA.

MDA shall grant funds under this article to a planning and development district or qualified entity in accordance with the following terms and conditions:

(a) Grant funds received by a planning and development district or qualified entity in accordance with this article shall be used by the planning and development district or qualified entity to establish a revolving assistance fund for the purpose of providing assistance to small businesses in accordance with this article. Except as otherwise allowed in this article, all principal and interest payments by small businesses in repayment of such assistance shall be eligible for and used by the planning and development district or qualified entity for additional assistance to small businesses in accordance with this article.

(b) Each planning and development district meeting the criteria set forth in this article shall receive an initial grant of not to exceed One Million Dollars ($1,000,000.00) for the purpose of establishing the program within its area in accordance with this article. Each qualified entity meeting the criteria set forth in this article shall be eligible to receive an initial grant of

Five Hundred Thousand Dollars ($500,000.00) for the purpose of establishing the program within the area it serves in accordance with this article. The total amount of initial grants to planning and development districts shall not exceed Ten Million Dollars ($10,000,000.00) and the total amount of initial grants for qualified entities shall not exceed Two Million Dollars ($2,000,000.00). Each planning and development district or qualified entity receiving an initial grant shall have twelve (12) months in which to make binding commitments to provide assistance to small businesses in the principal amount of the initial grant in accordance with this article. Grant funds not committed to provide assistance to small businesses at the end of twelve (12) months after receipt thereof by the planning and development district or qualified entity shall be returned to MDA for placement in a pool to be redistributed by MDA to planning and development districts or qualified entities which have binding commitments to distribute as assistance all their initial grant funds and have pending applications for additional assistance in accordance with this article. Any planning and development district or qualified entity returning any such grant funds to MDA shall be required at the time such initial grant funds are returned to deliver to the State Treasury, for deposit in the General Fund, interest on the amount of such returned funds at the same rate as any bonds or notes of the State of Mississippi issued pursuant to this article to provide such grant funds.

(c) After all of the initial grant funds have been provided as assistance to small businesses in accordance with this article, MDA shall distribute additional grant funds to each planning and development district or qualified entity qualified under this article to receive and requesting such funds in whatever amounts MDA deems appropriate and when needed by such planning and development districts or qualified entities to provide additional assistance to small businesses in accordance with this article. The schedule for distributing such funds shall be determined by MDA. Funds distributed to planning and development districts and qualified entities pursuant to this paragraph shall be in addition to funds distributed to planning and development districts and qualified entities pursuant to paragraph (b) of this section. The total amount of grants issued pursuant to this paragraph shall not exceed Twenty Million Dollars ($20,000,000.00) for planning and development districts or qualified entities. Grant funds not committed to provide assistance to small businesses at the end of twelve (12) months after receipt thereof by the planning and development district or qualified entity shall be returned to MDA for placement in a pool to be redistributed by MDA to planning and development districts or qualified entities which have binding commitments to distribute as assistance all their initial grant funds and have pending applications for additional assistance in accordance with this article. Any planning and development district or qualified entity returning any such grant funds to MDA shall be required at the time such grant funds are returned to deliver to the State Treasury, for deposit in the General Fund, interest on the amount of such returned funds at the same rate as any bonds or notes of the State of Mississippi issued pursuant to this article to provide such grant funds.

(d) A planning and development district or qualified entity participating in the program may utilize an amount equal to not more than fifty percent (50%) of interest earned on assistance provided to small businesses in accordance with this article or three percent (3%) of the current annual loans disbursed, whichever is the lesser amount, for administration and management of the program, unless specifically authorized to utilize more by MDA; however, any interest earned on grant funds held by a planning and development district or qualified entity prior to the utilization of such grant funds to provide assistance to small businesses shall be placed in the revolving assistance fund of the planning and development district or qualified entity and shall not be expended for administration or management costs. Planning and development districts and qualified entities may retain an amount equal to fifty percent (50%) of the interest earned on repayment funds that are being held on deposit in anticipation of relending, or three percent (3%) of the current annual loans disbursed, whichever is the lesser amount, to aid in the administration and management of the program. Each planning and development district and qualified entity shall file annually with the Secretary of the Senate and the Clerk of the House of Representatives not later than the first day of each regular legislative session a report which details any interest retained or utilized by the planning and development district or qualified entity pursuant to this paragraph (d).

(e) If a planning and development district or qualified entity participating in the program experiences losses from assistance provided pursuant to the program in excess of sixty percent (60%) of the amount of grant funds received by the planning and development district or qualified entity, the planning and development district or qualified entity shall repay the State of Mississippi the amount of such losses in excess of sixty percent (60%) by delivering that amount to the State Treasury for deposit in the General Fund.

(f) MDA shall assist each planning and development district or qualified entity participating in the program in connection with such planning and development district's or qualified entity's compliance with this article.

(g) Each planning and development district or qualified entity participating in the program shall submit the following reports to the MDA:

(i) An annual audit of grant funds received in connection with the program; and

(ii) A semiannual report on July 30 and January 30 of each year, describing all assistance provided to small businesses pursuant to the program, such reports to include without limitation the following: a description of each small business receiving assistance; the project to be assisted and purpose of assistance; a description of each loan and equity investment, including the terms and conditions thereof and use of the assistance funds by the small business; history of the assistance pool, including principal amount loaned, interest earned, interest expended for administration and management, principal amount of equity investments, assistance funds available, and losses; and a statement of jobs created or retained as a result of the assistance program.

(h) If MDA determines that a district or entity has provided assistance to small businesses in a manner inconsistent with the provisions of this article, then the amount of such assistance so provided shall be withheld by MDA from any additional grant funds to which the district or entity becomes entitled under this article. If MDA determines, after notifying such district or entity twice in writing and providing such district or entity a reasonable opportunity to comply, that a planning and development district or qualified entity has consistently failed to comply with this article in connection with the program, MDA may declare such planning and development district or qualified entity in default under the program and, upon receipt of notice thereof from MDA, such planning and development district or qualified entity shall immediately cease providing assistance under the program, shall refund to MDA for distribution to other planning and development districts or qualified entities all funds held in its revolving assistance fund and, if required by MDA, shall convey to MDA all administrative and management control of assistance provided by it under the program.

(i) If MDA determines, after notifying a planning and development district or qualified entity twice in writing and providing copies of such notification to each member of the Legislature in whose district or in a part of whose district such planning and development district or qualified entity is located and providing such district or entity a reasonable opportunity to take corrective action, that a planning and development district or a qualified entity administering a revolving assistance fund under the provisions of this article is not actively engaged in lending as defined by the rules and regulations of MDA, MDA may declare such planning and development district or qualified entity in default under the program and, upon receipt of notice thereof from MDA, such planning and development district or qualified entity shall immediately cease providing assistance under the program, shall refund to MDA for distribution to other planning and development districts or qualified entities all funds held in its revolving assistance fund and, if required by MDA, shall convey to MDA all administrative and management control of assistance provided by it under the program.

(j) Notwithstanding any other provision of this article to the contrary, if federal funds are not available for commitments made by a planning and development district to provide assistance under any federal loan program administered by the planning and development district in coordination with the Appalachian Regional Commission or Economic Development Administration, or both, a planning and development district may use funds in its revolving assistance fund, which have not been committed otherwise to provide assistance, for the purpose of providing temporary funding for such commitments. If a planning and development district uses uncommitted funds in its revolving assistance fund to provide such temporary funding, the district shall use funds repaid to the district under the temporarily funded federal loan program to replenish the funds used to provide the temporary funding. Funds used by a planning and development district to provide temporary funding under this paragraph (j) must be repaid to the district's revolving assistance fund no later than twelve (12) months after the date the district provides the temporary funding. A planning and development district may not use uncommitted funds in its revolving assistance fund to provide temporary funding under this paragraph (j) on more than two (2) occasions during a calendar year. A planning and development district may provide temporary funding for multiple commitments on each such occasion. The maximum aggregate amount of uncommitted funds in a revolving assistance fund that may be used for such purposes during a calendar year shall not exceed seventy percent (70%) of the uncommitted funds in the revolving assistance fund on the date the district first provides temporary funding during the calendar year.

SOURCES: Laws, 1993, ch. 566, § 6; Laws, 1995, ch. 602, § 1; Laws, 1996, ch. 528, § 1; Laws, 1997, ch. 573, § 1; Laws, 1998, ch. 597, § 1; Laws, 2000, ch. 398, § 1; Laws, 2000, ch. 607, § 1; Laws, 2001, ch. 428, § 1; Laws, 2001, ch. 537, § 1; Laws, 2003, ch. 373, § 1; Laws, 2010, ch. 533, § 11, eff from and after passage (approved April 16, 2010.)

Joint Legislative Committee Note — Section 1 of ch. 398, Laws, 2000, effective from and after its passage (approved April 17, 2000), amended this section. Section 1 of ch. 607, Laws, 2000, effective July 1, 2000 (approved May 20, 2000), also amended this section. As set out above, this section reflects the language of Section 1 of ch. 607, Laws, 2000, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect earlier.

Section 1 of ch. 428, Laws, 2001, effective from and after July 1, 2001 (approved March 13, 2001), amended this section. Section 1 of ch. 537, Laws, 2001, effective from and after January 1, 2001 (approved April 7, 2001), also amended this section. As set out above, this section reflects the language of Section 1 of ch. 537, Laws, 2001, which specifically provides that the provisions in ch. 537 supersede those in ch. 428.

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

§ 57-10-513. General powers and duties of planning and development districts and qualified entities.

The planning and development districts and qualified entities are authorized, empowered and directed to deposit all grant funds received pursuant to this article in a revolving assistance fund and to provide assistance therefrom to small businesses in accordance with this article and the following criteria, terms and conditions:

(a) To be eligible for assistance under this article, the small business and the project to be assisted must meet the following criteria:

(i) Assistance must be in connection with an identifiable project or business plan, and the principal amount of all assistance may not exceed fifty percent (50%) of the total cost of said project or business plan;

(ii) Assistance may be used in connection with the purchase or lease of land, buildings, equipment and inventory, and for working capital; provided, however, no more than one-third (1/3) of the total assistance to a small business pursuant to this article or Fifty Thousand Dollars ($50,000.00), whichever is less, may be used for working capital;

(iii) Assistance may not be provided for speculative land or real estate investments;

(iv) Assistance may not be provided under the program to finance or satisfy any existing debt;

(v) Assistance may not be provided to a small business unless at least sixty percent (60%) of the small business is owned, directly or indirectly, by individuals who have been residents of the State of Mississippi for two (2) years immediately prior to the application for assistance; and

(vi) The project or business plan for which assistance is provided must create or retain full-time jobs, and the planning and development district or qualified entity must receive a certificate to that effect from the small business before any assistance is provided.

(b) The interest rate on loans shall not be less than five percent (5%) per annum or more than four percent (4%) above the federal discount rate, plus the servicing fees established in this article.

(c) As security for any loan under the program, the planning and development district or qualified entity shall take a security interest in assets of the small business and require personal guarantees of all persons and entities owning twenty percent (20%) or more of the small business. Such security interests may be subordinate to other security interests in such assets.

(d) The maximum term of any loan under the program shall not exceed the following: fifteen (15) years if used to purchase or lease land or buildings, ten (10) years if used to purchase or lease equipment, five (5) years if used to provide working capital and three (3) years if used to purchase inventory.

(e) In the event of a default by a small business on a loan under the program, the planning and development district or qualified entity shall foreclose and enforce its security interests and personal guarantees relating to such loan and take all necessary and appropriate action to recover all principal and interest owed, and all amounts so recovered shall be deposited in the revolving assistance fund administered by said planning and development district or qualified entity. Any small business which defaults on a loan under the program shall not be eligible for any other loan under the program.

(f) A planning and development district or qualified entity may acquire, subscribe for, own, hold, sell, assign, transfer, mortgage or pledge an equity investment in a small business incorporated under the laws of the State of Mississippi, provided such equity investment constitutes less than fifty percent (50%) of the voting shares of the small business and does not exceed Fifty Thousand Dollars ($50,000.00), and while the owner or holder thereof, the planning and development district or qualified entity may exercise all the rights, powers and privileges of ownership, including the right to vote thereon. Any such equity investment in a small business may be redeemed by such small business upon payment to the planning and development district or qualified entity of the principal amount of such equity investment, plus six percent (6%) interest, compounded annually from the date of such equity investment, provided such repayment is tendered within seven (7) years of the date of such equity investment.

(g) A planning and development district or qualified entity shall not utilize more than one-third (⅓) of all grant funds received for equity investments in small businesses.

(h) No small business shall receive assistance under the program in excess of Two Hundred Fifty Thousand Dollars ($250,000.00).

(i) All assistance applications must be reviewed by, and the terms and conditions of the assistance must be recommended to the planning and development district or qualified entity, by a small business assistance review board established by the planning and development district or qualified entity, consisting of the following members appointed by the planning and development district or qualified entity:

(i) Two (2) individuals with current experience in banking or finance;

(ii) Two (2) principal or majority owners of private, for-profit commercial enterprises qualifying as small businesses under this article;

(iii) One (1) senior officer of a private, for-profit commercial enterprise not qualifying as a small business under this article or the executive director of an industrial or economic development foundation;

(iv) One (1) individual who is a minority and who has current experience in banking or finance or who is the principal or majority owner of a private, for-profit commercial enterprise qualifying as a small business under this article; and

(v) One (1) individual who is female and who has current experience in banking or finance or who is the principal or majority owner of a private, for-profit commercial enterprise qualifying as a small business under this article.

As used in this paragraph, "minority" shall mean individuals who are Asian, Black, Hispanic or Native American as defined in Section 31-7-13(s), Mississippi Code of 1972.

All members of such small business assistance review boards shall be residents of the area served by the planning and development district or qualified entity. Small business assistance review boards shall meet at least quarterly and shall meet anytime there are at least two (2) assistance applications pending that require review.

(j) If the small business assistance review board recommends that assistance be provided, the planning and development district or qualified entity may either approve and provide the assistance on the exact terms and conditions recommended by the small business assistance review board or determine not to provide such assistance. Under no circumstances may the planning and development district or qualified entity provide such assistance on any terms or conditions not approved and recommended by the small business assistance review board. If the planning and development district or qualified entity determines not to provide the assistance that the small business assistance review board has recommended to be provided, the board of directors of such district or the governing body of such entity shall place in its minutes an explanation of the reasons for such refusal. If the small business assistance review board recommends against providing the assistance, the board of directors of the planning and development district or the governing body of the qualified entity may not determine to provide such assistance under any terms and conditions.

SOURCES: Laws, 1993, ch. 566, § 7; Laws, 1996, ch. 528, § 2; Laws, 2000, ch. 398, § 2; Laws, 2004, ch. 348, § 1, eff from and after July 1, 2004.

Cross References — Interest rate for assistance made using funds from Mississippi Small Business Assistance Fund to be determined in accordance with this section, see § 57-10-523.

§ 57-10-515. Engagement of professional services.

The planning and development districts and qualified entities are hereby authorized to engage legal counsel, accountants, financial advisors, appraisers, consultants and others as needed in connection with providing assistance to small businesses pursuant to this article, and to charge the costs of these services to the small businesses receiving such assistance or charge the proceeds of such assistance therefor. To the extent required by DECD, such professional services shall be engaged on a statewide program basis.

SOURCES: Laws, 1993, ch. 566, § 8, eff from and after passage (approved April 19, 1993).

Cross References — DECD defined as the Mississippi Development Authority, see § 57-10-505.

§ 57-10-517. Adoption and publication of eligibility criteria for participation in program, timetable and process for review of applications, and other rules and regulations; adoption of uniform applications, forms, procedures, and requirements.

(1) DECD shall adopt and publish the eligibility criteria for planning and development districts and qualified entities to participate in the program as set forth in this article, a timetable and process for review of applications from planning and development districts or qualified entities, and program report

forms, all in accordance with this article, and such other rules and regulations as may be necessary and appropriate in carrying out its responsibilities under this article; provided, however, that planning and development districts or qualified entities shall have sole authority over the approval of assistance and the management of the assistance provided under this article.

(2) The Mississippi Association of Planning and Development Districts shall prepare and adopt such uniform applications, forms, procedures and requirements for use in connection with the program as they deem necessary and appropriate.

SOURCES: Laws, 1993, ch. 566, § 9, eff from and after passage (approved April 19, 1993).

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (2) by substituting "Development Districts" for "Development District." The Joint Committee ratified the correction at its August 5, 2008, meeting.

Cross References — DECD defined as the Mississippi Development Authority, see § 57-10-505.

§ 57-10-519. Certification of nondiscrimination.

No assistance shall be provided to a small business under this article unless the small business certifies to the planning and development district or qualified entity, in a form satisfactory to DECD, that it will not discriminate against any employee or against any applicant for employment because of race, religion, color, national origin, sex or age.

SOURCES: Laws, 1993, ch. 566, § 10, eff from and after passage (approved April 19, 1993).

§ 57-10-521. Creation of Mississippi Small Business Assistance Fund; deposits; funds to be deposited in General Fund.

(1) There is hereby created a special fund in the State Treasury to be known as the Mississippi Small Business Assistance Fund out of which grants and expenditures authorized in connection with the program shall be disbursed. All monies received by issuance of bonds to carry out the purposes of this article shall be deposited into the Mississippi Small Business Assistance Fund.

(2) All funds repaid to the State Treasury under this article or designated hereunder for repayment of any bonds issued under this article shall be delivered to the State Treasurer for deposit in the General Fund.

SOURCES: Laws, 1993, ch. 566, § 11, eff from and after passage (approved April 19, 1993).

§ 57-10-523. Redemption and cancellation of bonds; determination by Treasurer as to bond payments for following year; inclusion of information in budget by Governor; interest rate on assistance.

(1) All bonds issued under the authority of this article shall be redeemed at maturity, together with all interest due, from time to time, on the bonds, and these principal and interest payments shall be paid from the General Fund.

(2) In the event that all or any part of the bonds and notes are purchased, they shall be canceled and returned to the loan and transfer agent as canceled and paid bonds and notes; and thereafter all payments of interest thereon shall cease and the canceled bonds, notes and coupons, together with any other canceled bonds, notes and coupons, shall be destroyed as promptly as possible after cancellation but not later than two (2) years after cancellation. A certificate evidencing the destruction of the canceled bonds, notes and coupons shall be provided by the loan and transfer agent to the seller.

(3) The State Treasurer shall determine and report to the Department of Finance and Administration and Legislative Budget Office by September 1 of each year the amount of money necessary for the payment of the principal of and interest on outstanding obligations for the following fiscal year and the times and amounts of the payments. It shall be the duty of the Governor to include in every executive budget submitted to the Legislature full information relating to the issuance of bonds and notes under the provisions of this article and the status of the General Fund for the payment of the principal of and interest on the bonds and notes.

(4) Except as otherwise provided by law, the rate of interest on any assistance made using funds from the Mississippi Small Business Assistance Fund shall be in accordance with Section 57-10-513. Notwithstanding the provisions of any other law to the contrary, the interest rate charged shall not be set such that the aggregate of the interest, penalties and other payments to the planning and development districts or qualified entities in connection with such assistance made using funds from the Mississippi Small Business Assistance Fund will cause the bonds issued pursuant to this article to be deemed arbitrage bonds pursuant to Section 148 of the Internal Revenue Code of 1986 and the regulations promulgated thereunder. In the case of assistance initially funded from the proceeds of notes and subsequently funded from renewal bonds and notes, the interest rate to be charged on the assistance shall be established in accordance with Section 57-10-513 upon the sale of bonds or notes, as the case may be, for such assistance.

SOURCES: Laws, 1993, ch. 566, § 12, eff from and after passage (approved April 19, 1993).

Federal Aspects — Section 148 of the Internal Revenue Code of 1986, which is referred to in this section, is classified as 26 USCS § 148.

§ 57-10-525. Limitation on borrowing; rate of interest on nontaxable bonds or notes; issuance, terms, and execution of general or limited obligation bonds; payment of principal and interest on bonds; tax exempt status.

(1) The seller is authorized to borrow, on the credit of the state, money not exceeding the aggregate sum of Thirty-two Million Dollars ($32,000,000.00), not including money borrowed to refund outstanding bonds, notes or replacement notes, as may be necessary to carry out the purposes of this article. The rate of interest on any such bonds or notes which are not subject to taxation shall not exceed the rates set forth in Section 75-17-101, Mississippi Code of 1972, for general obligation bonds.

(2) As evidence of indebtedness authorized in this article, general or limited obligation bonds of the state shall be issued from time to time to provide monies necessary to carry out the purposes of this article for such total amount, in such form, in such denominations, payable in such currencies (either domestic or foreign or both), and subject to such terms and conditions of issue, redemption and maturity, rate of interest and time of payment of interest as the seller directs, except that such bonds shall mature or otherwise be retired in annual installments beginning not more than five (5) years from the date thereof and extending not more than twenty (20) years from the date thereof.

(3) All bonds and notes issued under authority of this article shall be signed by the chairman of the seller, or by his facsimile signature, and the official seal of the seller shall be affixed thereto, attested by the secretary of the seller.

(4) All bonds and notes issued under authority of this article may be general or limited obligations of the state, and the full faith and credit of the State of Mississippi as to general obligation bonds, or the revenue derived from projects assisted as to limited obligation bonds, are hereby pledged for the payment of the principal of and interest on such bonds and notes.

(5) Such bonds and notes and the income therefrom shall be exempt from all taxation in the State of Mississippi.

(6) The bonds may be issued as coupon bonds or registered as to both principal and interest as the seller may determine. If interest coupons are attached, they shall contain the facsimile signature of the chairman and the secretary of the seller.

(7) As to bonds issued hereunder and designated as taxable bonds by the seller, any immunity of the state to taxation by the United States government of interest on bonds or notes issued by the state is hereby waived.

SOURCES: Laws, 1993, ch. 566, § 13; Laws, 2000, ch. 607, § 2, eff from and after July 1, 2000.

§ 57-10-527. Sale of bonds; registration.

(1) Whenever bonds are issued, they shall be offered for sale at not less than par value and accrued interest and shall be sold by the seller at public or private sale, from time to time, in such manner and at such price as may be determined by the seller to be most advantageous.

(2) Any portion of any bond issue so offered and not sold or subscribed for at public sale may be disposed of by private sale by the seller in such manner and at such prices not less than par and accrued interest, as the seller shall direct.

(3) When bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the seller or may be combined for sale as one (1) series with other general obligation bonds of the State of Mississippi.

(4) Until permanent bonds can be prepared, the seller may in its discretion issue, in lieu of permanent bonds, temporary bonds in such form and with such privileges as to registration and exchange for permanent bonds as may be determined by the seller.

(5) Pending their application to the purposes authorized, bond proceeds held or deposited by the State Treasurer may be invested or reinvested as are other funds in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or deposit of such funds shall be paid into the State Treasury to the credit of the Mississippi Small Business Assistance Fund.

(6) The State Treasurer shall prepare the necessary registry book to be kept in the office of the duly authorized loan and transfer agent of the state for the registration of any bonds, at the request of owners thereof, according to the terms and conditions of issue directed by the seller.

(7) All costs and expenses in connection with the issue of and sale and registration of the bonds and notes in connection with this article, and all costs and expenses in connection with implementation of the program and development of application forms, procedures and requirements for use in connection with the program may be paid from the proceeds of bonds and notes issued under this article.

(8) The seller may provide in the resolution authorizing the issuance of such bonds for the employment of one or more persons or firms to assist in the sale of the bonds; to enter into contracts with financial institutions located either within or without the State of Mississippi to act as registrar, paying agents, transfer agents or otherwise; for rating of the bonds; and to purchase insurance.

SOURCES: Laws, 1993, ch. 566, § 14, eff from and after passage (approved April 19, 1993).

Cross References — Creation of Mississippi Small Business Assistance Fund, see § 57-10-521.

§ 57-10-529. Temporary borrowings by seller pending issuance of bonds of state.

(1) Pending the issuance of bonds of the state as authorized under this article, the seller is hereby authorized in accordance with the provisions of this article and on the credit of the state, to make temporary borrowings not to exceed two (2) years in anticipation of the issue of bonds in order to provide funds in such amounts as may, from time to time, be deemed advisable prior to the issue of bonds. In order to provide for and in connection with such temporary borrowings, the seller is hereby authorized in the name and on behalf of the state to enter into any purchase, loan or credit agreement, or agreements, or other agreement or agreements with any financial institution or persons in the United States having power to enter into the same, which agreements may contain such provisions not inconsistent with the provisions of this article as may be authorized by the seller.

(2) All temporary borrowings made under this section shall be evidenced by notes of the state which shall be issued, from time to time, for such amounts not exceeding in the aggregate the applicable statutory and constitutional debt limitation, in such form and in such denominations and subject to terms and conditions of sale and issue, prepayment or redemption and maturity, rate or rates of sale and time of payment of interest as the seller shall authorize and direct and in accordance with this article. Such authorization and direction may provide for the subsequent issuance of replacement notes to refund, upon issuance thereof, such notes, and may specify such other terms and conditions with respect to the notes and replacement notes thereby authorized for issuance as the seller may determine and direct.

(3) When the authorization and direction of the seller provide for the issuance of replacement notes, the seller is hereby authorized in the name and on behalf of the state to enter into agreements with any financial institutions or persons in the United States having the power to enter into the same:

(a) To purchase or underwrite an issue or series of issues of notes.

(b) To enter into any purchase, loan or credit agreements, and to draw monies pursuant to any such agreements on the terms and conditions set forth therein and to issue notes as evidence of borrowings made under any such agreements.

(c) To appoint or act as issuing and paying agent or agents with respect to notes.

(d) To do such other acts as may be necessary or appropriate to provide for the payment, when due, of the principal of and interest on such notes.

Such agreements may provide for the compensation of any purchasers or underwriters of notes or replacement notes by payment of a fixed fee or commission at the time of issuance thereof, and for all other costs and expenses, including fees for agreements related to the notes issuing and paying agent costs. Costs and expenses of issuance may be paid from the proceeds of the notes.

(4) When the authorization and direction of the seller provides for the issuance of replacement notes, it shall, at or prior to the time of delivery of

these notes or replacement notes, determine the principal amounts, dates of issue, interest rate or rates, rates of discount, denominations and all other terms and conditions relating to the issuance. The State Treasurer shall perform all acts and things necessary to pay or cause to be paid, when due, all principal of and interest on the notes being refunded by replacement notes and to assure that the same may draw upon any monies available for that purpose pursuant to any purchase loan or credit agreements established with respect thereto, all subject to the authorization and direction of the seller.

(5) Outstanding notes evidencing such borrowings may be funded and retired by the issuance and sale of the bonds of the state as hereinafter authorized. The refunding bonds must be issued and sold not later than a date two (2) years after the date of issuance of the first notes evidencing such borrowings to the extent that payment of such notes has not otherwise been made or provided for by sources other than proceeds of replacement notes.

(6) The proceeds of all such temporary borrowing shall be paid to the State Treasurer to be held and disposed of in accordance with the provisions of Section 57-10-521.

SOURCES: Laws, 1993, ch. 566, § 15, eff from and after passage (approved April 19, 1993).

§ 57-10-531. Disposition of proceeds from sale of bonds and notes and available nonfederal funds.

(1) The proceeds realized from the sale of bonds and notes under this article, other than refunding bonds and replacement notes, shall be paid to the State Treasurer and deposited into the Mississippi Small Business Assistance Fund and specifically dedicated to the purposes enumerated in this article.

(2) All nonfederal funds which may become available for the purposes of this article shall be deposited in the Mississippi Small Business Assistance Fund and shall be allocated for the purposes of this article.

(3) The proceeds of the sale of refunding bonds and replacement notes shall be applied solely to the payment of the principal of and the accrued interest on and premium, if any, and costs of redemption of the bonds and notes for which such obligations have been issued.

SOURCES: Laws, 1993, ch. 566, § 16, eff from and after passage (approved April 19, 1993).

Cross References — Mississippi Small Business Assistance fund created, see § 57-10-521.

§ 57-10-533. Attorney General to represent seller in issuing, selling and validating bonds or notes.

Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent the seller in issuing, selling and validating bonds or notes herein provided for, and the seller is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds or notes authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds or notes authorized under this article.

SOURCES: Laws, 1993, ch. 566, § 17; Laws, 2012, ch. 546, § 23, eff from and after July 1, 2012.

ARTICLE 15.

STATE SMALL BUSINESS CREDIT INITIATIVE.

SEC.
57-10-601. Definitions; Mississippi Development Authority designated agency for implementation of state program and participation in federal initiative.

§ 57-10-601. Definitions; Mississippi Development Authority designated agency for implementation of state program and participation in federal initiative.

(1) As used in this section:

(a) "Act" means the State Small Business Credit Initiative Act of 2010 (Public Law 111-240).

(b) "State program" has the meaning ascribed to such term in the State Small Business Credit Initiative Act of 2010 (Public Law 111-240).

(c) "MDA" means the Mississippi Development Authority.

(2) The MDA is designated as the agency to implement a state program and participate in the State Small Business Credit Initiative established under the act.

(3) The MDA is authorized and empowered to take any action necessary to establish and implement a state program that meets all the requirements of the act.

(4) The MDA is authorized and empowered to administer funds transferred to the state under the act.

(5) The Executive Director of MDA is authorized and empowered to promulgate and put into effect all reasonable rules and regulations that he may deem necessary to carry out the provisions of this section and comply with the act.

SOURCES: Laws, 2011, ch. 480, § 40, eff from and after passage (approved Apr. 6, 2011.)

Federal Aspects — State Small Business Credit Initiative Act of 2010 (P.L. 111-240), see 12 USCS §§ 5701 et seq.

ARTICLE 17.

SMALL BUSINESS AND GROCER INVESTMENT ACT.

SEC.	
57-10-701.	Short title [Repealed effective July 1, 2016].
57-10-703.	Legislative intent [Repealed effective July 1, 2016].
57-10-705.	Definitions [Repealed effective July 1, 2016].
57-10-707.	Establishment of program to provide grants and loans to food retailers to increase access to healthy foods in underserved communities; public-private partnerships; uses of funds; application for funding [Repealed effective July 1, 2016].
57-10-709.	Use of funding to leverage other sources of funds [Repealed effective July 1, 2016].
57-10-711.	Repeal of Sections 57-10-701 through 57-10-711.

§ 57-10-701. Short title [Repealed effective July 1, 2016].

This article shall be known as the "Small Business and Grocer Investment Act."

SOURCES: Laws, 2014, ch. 514, § 1, eff from and after July 1, 2014.

Editor's Note — For repeal of this section, see § 57-10-711.

§ 57-10-703. Legislative intent [Repealed effective July 1, 2016].

The Legislature finds the following:

(a) Developing quality retail food outlets creates jobs, expands markets for Mississippi farmers, and supports economic vitality in underserved communities.

(b) Increasing access to retail food outlets that sell fresh fruits, vegetables and other healthy food is an important strategy for fighting the obesity epidemic and improving health. Studies have shown that people with better access to supermarkets and fresh produce tend to have healthier diets and lower levels of obesity.

(c) The program established under this article is intended to provide a dedicated source of financing for healthy food retailers operating in underserved communities in Mississippi, in both urban and rural areas; to increase access to affordable healthy food so as to improve diets and health; to promote the sale and consumption of fresh fruits and vegetables, in natural and/or frozen form, particularly those that are Mississippi grown; and to support expanded economic opportunities in low-income and rural communities.

SOURCES: Laws, 2014, ch. 514, § 2, eff from and after July 1, 2014.

Editor's Note — For repeal of this section, see § 57-10-711.

§ 57-10-705. Definitions [Repealed effective July 1, 2016].

As used in this article:

(a) "Agency" means the Mississippi Development Authority.

(b) "Funding" means grants, loans, or a combination of grants and loans.

(c) "Healthy food retailers" means retailers that sell quality fresh fruits and vegetables, in natural and/or frozen form, including, but not limited to, supermarkets, grocery stores, convenience stores and farmers' markets.

(d) "Program" means technical assistance and a public-private partnership established in the state by the Mississippi Development Authority to identify and/or provide a dedicated source of funding and other financing for food retailers that increase access to fresh fruits and vegetables, in natural and/or frozen form, and other affordable healthy food for Mississippi residents overseen by the Mississippi Development Authority.

(e) "Underserved community" means a geographic area that has limited access to healthy food retailers, or an area that is otherwise determined to have serious healthy food access limitations, that is located in a county that has been designated by the Department of Revenue as a Tier Two or Tier Three area under the provisions of Section 57-73-21(1).

SOURCES: Laws, 2014, ch. 514, § 3, eff from and after July 1, 2014.

Editor's Note — For repeal of this section, see § 57-10-711.

§ 57-10-707. Establishment of program to provide grants and loans to food retailers to increase access to healthy foods in underserved communities; public-private partnerships; uses of funds; application for funding [Repealed effective July 1, 2016].

(1) To the extent funds are available, the Mississippi Development Authority, in cooperation with public and private sector partners, is authorized to establish a program modeled on comparable initiatives throughout the nation that provides grants and loans and/or promotes access to healthy food retailers that increase access to fresh fruits and vegetables, in natural and/or frozen form, and other affordable healthy food in underserved communities.

(2) The agency may contract with one or more qualified nonprofit organizations or community development financial institutions to administer the program described in this article through a public-private partnership, to raise matching funds, market the program statewide, evaluate applicants, make award decisions, underwrite loans and monitor compliance and impact. The agency and its partners shall coordinate with complementary nutrition assistance and education programs.

(3) Any funding provided under the program shall be provided on a competitive, one-time basis as appropriate for the eligible project. No state funds shall be directly provided as a source of funding for any food retailer

under this program, but may be used by the agency for its administrative duties in carrying out the provisions of this article.

(4)(a) The program may provide technical assistance and/or funding for projects such as:

(i) New construction of healthy food retailers.

(ii) Store renovations, expansion and infrastructure upgrades that improve the availability and quality of fresh produce.

(iii) Farmers' markets and public markets, food cooperatives, mobile markets and delivery projects and distribution projects that enable food retailers in underserved communities to regularly obtain fresh produce.

(iv) Other projects that create or improve healthy food retail outlets that meet the intent of this article as determined by the agency.

(b) Funding made available for projects included in paragraph (a) of this subsection may be used for the following purposes:

(i) Site acquisition and preparation.

(ii) Construction costs.

(iii) Equipment and furnishings.

(iv) Workforce training.

(v) Security.

(vi) Certain predevelopment costs such as market studies and appraisals.

(vii) Working capital for initial inventory and costs.

(5) An applicant for funding may include, but not be limited to, a sole proprietorship, partnership, limited liability company, corporation or cooperative.

(6) In order to be considered for funding, an applicant shall meet the following eligibility criteria:

(a) The project for which the applicant seeks funding shall benefit an underserved community.

(b) The applicant shall demonstrate a meaningful commitment to sell fresh fruits and vegetables, in natural and/or frozen form, according to a measurable standard established by the agency.

(7) Applicants shall be evaluated on the following financial criteria in order to determine the funding awarded:

(a) Demonstrated capacity to successfully implement the project, including the applicant's relevant experience and the likelihood that the project will be economically self-sustaining.

(b) The ability of the applicant to repay debt.

(c) The degree to which the project requires an investment of public funding to move forward, create impact or be competitive, and the level of need in the area to be served. Additional factors that will improve or preserve retail access for low-income residents, such as proximity to public transit lines, also may be taken into account.

(d) The degree to which the project will promote sales of fresh produce, particularly Mississippi-grown fruits and vegetables.

(e) The degree to which the project will have a positive economic impact on the underserved community, including, creating or retaining jobs for local residents.

(f) Other criteria that the agency determines to be consistent with the purposes of this article.

(8) The agency shall establish program benchmarks and reporting processes to make certain that the program benefits the communities in the program area. The agency shall likewise establish monitoring and accountability mechanisms for projects receiving grants or loans, such as tracking fruit and vegetable sales data.

(9) The agency shall prepare and submit an annual report to the Legislature on any projects funded and outcome data.

(10) The agency shall establish rules for the implementation of the article.

SOURCES: Laws, 2014, ch. 514, § 4, eff from and after July 1, 2014.

Editor's Note — For repeal of this section, see § 57-10-711.

§ 57-10-709. Use of funding to leverage other sources of funds [Repealed effective July 1, 2016].

Funding described in this article, to the extent practicable, may be used to leverage other sources of funds, including, but not limited to, New Markets Tax Credits, federal and foundation grant programs, incentives available to designated Enterprise Zones or Renewal Communities, operator equity and funds from private sector financial institutions under the federal Community Reinvestment Act.

SOURCES: Laws, 2014, ch. 514, § 5, eff from and after July 1, 2014.

Editor's Note — For repeal of this section, see § 57-10-711.

§ 57-10-711. Repeal of Sections 57-10-701 through 57-10-709.

Sections 57-10-701 through 57-10-709 shall stand repealed on July 1, 2016.

SOURCES: Laws, 2014, ch. 514, § 6, eff from and after July 1, 2014.

CHAPTER 11

Market and Industrial Studies and Research

Mississippi Marketing Council 57-11-1
Market Research and Plant Design and Engineering 57-11-31
Selected Industrial Feasibility Law 57-11-61

MISSISSIPPI MARKETING COUNCIL

Sec.	
57-11-1.	Repealed.
57-11-3.	Duties and responsibilities of council.
57-11-5.	Composition of council; terms of members; officers; quorum.
57-11-7.	Repealed.
57-11-9.	Repealed.
57-11-11.	Repealed.
57-11-13.	Repealed.
57-11-15.	Establishment of Mississippi Craft Stores.
57-11-17.	Powers and authority of marketing council with respect to acquisition of facilities for craft stores.
57-11-19.	Cooperation with marketing council by state agencies.
57-11-21.	Restrictions on sales of merchandise by craft stores.

§ 57-11-1. Repealed.

Repealed by Laws, 1988, ch. 518, § 93, eff from and after July 1, 1988. [Codes, 1942, § 8940-41; Laws, 1964, ch. 512, § 1; 1979, ch. 438, § 18]

Editor's Note — Former § 57-11-1 created the Mississippi Marketing Council and stated the purposes for creating it.

§ 57-11-3. Duties and responsibilities of council.

The duties and responsibilities of the council shall be to advise the division of marketing of the Mississippi Department of Economic Development regarding the development and execution of programs designed to carry out the purposes hereinbefore stated and to advise the governor and the legislature regarding policies and laws bearing upon the marketing of products and services and the establishment of industries utilizing or otherwise relating to agricultural and forestry products.

SOURCES: Codes, 1942, § 8940-42; Laws, 1964, ch. 512, § 2; Laws, 1979, ch. 438, § 19, eff from and after February 1, 1980.

Editor's Note — Section 57-1-2 provides that "Department of Economic Development" shall mean the "Department of Economic and Community Development."

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of

Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-11-5. Composition of council; terms of members; officers; quorum.

The council shall consist of fifteen (15) members from the state at large, representative of the various segments of agriculture and forestry, to be selected and appointed by the governor, and who shall serve for a term of not more than four (4) years under each appointment, which term of office shall expire at the expiration of the term of office for which the governor appointing the members was elected, without regard for the date of actual appointment of the members. Such members shall continue to serve until their successors have been appointed and duly qualified. The governor shall appoint a chairman and a vice-chairman of the council, and nine (9) members shall constitute a quorum of the members thereof.

SOURCES: Codes, 1942, § 8940-43; Laws, 1964, ch. 512, § 3, eff from and after passage (approved June 4, 1964).

§ 57-11-7. Repealed.

Repealed by Laws, 1988, ch. 518, § 93, eff from and after July 1, 1988.

[Codes, 1942, § 8940-44; Laws, 1964, ch. 512, § 4; Laws, 1979, ch. 438, § 20]

Editor's Note — Former § 57-11-7 provided for council meetings.

§ 57-11-9. Repealed.

Repealed by Laws, 1979, ch. 438, § 22, eff from and after February 1, 1980.

[Codes, 1942, § 8940-45; Laws, 1964, ch. 512, § 5]

Editor's Note — Former § 57-11-9 provided for the appointment, qualifications and term of office of an associate director.

§ 57-11-11. Repealed.

Repealed by Laws, 1988, ch. 518, § 93, eff from and after July 1, 1988.

[Codes, 1942, § 8940-46; Laws, 1964, ch. 512, § 6; Laws, 1979, ch. 438, § 21]

Editor's Note — Former § 57-11-11 appointed the associate director as secretary of the council, and specified his duties.

§ 57-11-13. Repealed.

Repealed by Laws, 1979, ch. 438, § 22, eff from and after February 1, 1980.

[Codes, 1942, § 8940-47; Laws, 1964, ch. 512, § 7]

Editor's Note — Former § 57-11-13 provided that the associate director was to discharge the duties and responsibilities of department as director and executive committee of the board.

§ 57-11-15. Establishment of Mississippi Craft Stores.

For the purpose of aiding, establishing and providing proper facilities for the efficient display and merchandising of crafts and arts in the interest of those individual citizens who are producing and are capable of producing various items of value and interest, the general public and the State of Mississippi, and to assist in the display, disposal and sale of such arts and crafts, there is hereby established under the supervision of the Mississippi Marketing Council the Mississippi Craft Stores.

SOURCES: Laws, 1973, ch. 419, § 1, eff from and after passage (approved April 2, 1973).

§ 57-11-17. Powers and authority of marketing council with respect to acquisition of facilities for craft stores.

The Mississippi Marketing Council is hereby authorized to acquire by donation or lease for and in the name of the State of Mississippi suitable and accessible facilities as may be necessary for the display, disposal and sale of those certain objects of crafts and arts set forth in Section 57-11-15. The marketing council is hereby authorized and empowered to lease, or rent, to any individual any part of the property under its jurisdiction acquired for such purposes. The funds derived from any lease, or rental contract, entered into under authority of this section shall be deposited in the state treasury to the credit of the general fund of the state.

SOURCES: Laws, 1973, ch. 419, § 2, eff from and after passage (approved April 2, 1973).

§ 57-11-19. Cooperation with marketing council by state agencies.

The Mississippi Department of Wildlife, Fisheries and Parks, the Mississippi Arts Commission, the Mississippi Department of Education, the Department of Human Services, the Mississippi Extension Service, the Mississippi Department of Agriculture and Commerce, the Mississippi Department of Economic and Community Development, and the Mississippi Fair Commission may cooperate with the marketing council in carrying out the purposes of Sections 57-11-15 through 57-11-21.

SOURCES: Laws, 1973, ch. 419, § 3; Laws, 1988, ch. 518, § 53; Laws, 2000, ch. 516, § 126, eff from and after passage (approved Apr. 30, 2000.)

Editor's Note — Section 57-1-54 provides that the term "Mississippi Department of Economic Development" appears in any law the same shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Mississippi Department of Education generally, see §§ 37-3-1 et seq.

Mississippi Arts Commission generally, see §§ 39-11-1 et seq.

Department of Human Services generally, see §§ 43-1-1 et seq.

Department of Agriculture and Commerce generally, see §§ 69-1-1 et seq.

Mississippi Fair Commission generally, see §§ 69-5-1.

§ 57-11-21. Restrictions on sales of merchandise by craft stores.

No craft store shall have on display, for sale, or otherwise handle any merchandise commercially manufactured except soft drinks or other items related to snacks.

SOURCES: Laws, 1973, ch. 419, § 4, eff from and after passage (approved April 2, 1973).

MARKET RESEARCH AND PLANT DESIGN AND ENGINEERING

SEC.	
57-11-31.	Preparation of market studies, plant specifications, cost estimates, job estimates and operating statements.
57-11-33.	Contracts and expenditures for services.
57-11-35.	Offering of plant designs, etc., to individuals or groups; repayment of plant engineering costs by users of designs, etc.
57-11-37.	Plant engineering revolving fund.
57-11-39.	Transfer of funds on termination of program.

§ 57-11-31. Preparation of market studies, plant specifications, cost estimates, job estimates and operating statements.

The Mississippi Agricultural and Industrial Board is hereby authorized and empowered to employ such a firm or firms which are experienced, competent and qualified in the field of market research, industrial research, plant design and engineering as may be necessary to accomplish the following work in the shortest time possible:

(1) To make a broad, preliminary market study to reveal a wide range of products, both agricultural and nonagricultural, that can be manufactured in Mississippi from materials and resources available in or to Mississippi.

(2) To make detailed market studies in connection with the favorable products revealed by the preliminary study above referred to, in order to

determine with reasonable certainty those products for which a profitable and growing market exists.

(3) Lay out, design and prepare plans and specifications of the plants, machinery, equipment and other facilities necessary to produce in profitable volume those products selected as a result of the detailed study authorized in the foregoing paragraph.

(4) Prepare detailed cost estimates of the necessary land, buildings, machinery, equipment and other facilities and determine the amount of investment capital required to build and equip each plant.

(5) Prepare an estimate of the number of jobs to be created by each plant designed pursuant to Sections 57-11-31 through 57-11-39, the wage scale of the employees and the annual payroll of each plant.

(6) Prepare a projected operating statement of each plant, showing the anticipated profits at the end of the first, third and fifth year of operation, based on maximum operating capacity. Prepare the same information based on the assumption that the plant will operate at minimum operating capacity. Provide the same information for such percentages of maximum operating capacity as the board may deem necessary to determine with reasonable certainty the capacity at which the plant must operate in order to show a profit and to attract investment capital. The aforesaid studies shall show the normal operating capital requirements of each plant for the first five (5) years.

SOURCES: Codes, 1942, § 8939-01; Laws, 1960, ch. 145, § 1, eff from and after passage (approved March 15, 1960).

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-11-33. Contracts and expenditures for services.

The Mississippi Agricultural and Industrial Board is authorized and empowered to contract and pay for the services set out in the foregoing section, in such amount or amounts as may be necessary to attain the objectives of Sections 57-11-31 through 57-11-39, provided such commitments and expenditures are not to exceed the sum of one hundred fifty thousand dollars ($150,000.00) appropriated by the Mississippi Legislature for special market research and do not, at any time, exceed for plant design and engineering the amount or balance that may be available in a special "plant engineering revolving fund" maintained in the state treasury by an initial appropriation by the Mississippi Legislature in the amount of two hundred fifty thousand dollars ($250,000.00).

SOURCES: Codes, 1942, § 8939-02; Laws, 1960, ch. 145, § 2, eff from and after passage (approved March 15, 1960).

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-11-35. Offering of plant designs, etc., to individuals or groups; repayment of plant engineering costs by users of designs, etc.

The Mississippi Agricultural and Industrial Board is authorized and empowered to offer the market research information and such plant designs, blueprints, estimates of operation and other information obtained as the result of the surveys and studies authorized by Sections 57-11-31 through 57-11-39 to any individual or group of individuals in Mississippi, including any governmental subdivision thereof. However, the Mississippi Agricultural and Industrial Board shall inform such individuals or group of individuals desiring to make use of such plans, specifications and other information that the cost of the actual design, engineering and other work connected with each proposed plant, but not the cost of the special market research, has come from a revolving fund established by the Mississippi Legislature under Sections 57-11-31 through 57-11-39, and that the cost of such plant engineering services must be included by such individuals or group of individuals in the total cost of the new plant and the amount repaid to the state treasurer, to be placed in the said revolving fund, and thereby made available to pay for the cost of additional engineering and other services in connection with the design of plants for the use by other individuals. The Mississippi Agricultural and Industrial Board, after having investigated and confirmed the financial responsibility of the applicant, shall require each individual or group of individuals building a plant by the plans and specifications so provided to enter into a valid, legal and binding obligation to repay the cost of such plant engineering to the "plant engineering revolving fund" maintained in the state treasury, in an amount each year and over a period of years to be fixed by the said board in its discretion. If the individual or group of individuals building a plant by the plans and specifications so provided shall enter into a contract with any municipality for the construction of a plant from the proceeds of bonds to be issued under the provisions of Sections 57-1-1 through 57-1-51, known as the "Balance Agriculture With Industry Law," then the cost of such plant engineering shall be included as a part of the initial cost of the building and shall be repaid to the state treasurer from the proceeds of the sale of said bonds.

SOURCES: Codes, 1942, § 8939-03; Laws, 1960, ch. 145, § 3, eff from and after passage (approved March 15, 1960).

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-11-37. Plant engineering revolving fund.

The term "revolving fund" means a "plant engineering revolving fund" maintained in the state treasury as a separate fund which can be expended by the Mississippi Agricultural and Industrial Board for costs incurred in connection with the design engineering and projected operating estimates of the proposed industrial plants so long as there is a balance in the fund provided by the Mississippi Legislature. All moneys repaid by individuals or groups of individuals in return payment for such plant engineering will be credited to the "plant engineering revolving fund" so that additional studies can be made on the same basis and under the same conditions as provided in Sections 57-11-31 through 57-11-39.

SOURCES: Codes, 1942, § 8939-04; Laws, 1960, ch. 145, § 4, eff from and after passage (approved March 15, 1960).

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-11-39. Transfer of funds on termination of program.

If the program provided by Sections 57-11-31 through 57-11-39 is terminated or discontinued for any reason in the future, all moneys in the "plant engineering revolving fund," after the payment by the Mississippi Agricultural and Industrial Board of any outstanding costs in connection with said plant engineering, shall be transferred to the general fund of the state treasury on written certification of the director of the Mississippi Agricultural and Industrial Board that this program has been so discontinued or terminated, citing the statutory authority therefor.

SOURCES: Codes, 1942, § 8939-05; Laws, 1960, ch. 145, § 5, eff from and after passage (approved March 15, 1960).

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

SELECTED INDUSTRIAL FEASIBILITY LAW

Sec.
57-11-61. Short title.
57-11-63. Preparation of marketing, operating and financial feasibility studies of selected heavy industries.
57-11-65. Contracts and expenditures for feasibility studies; contributions.
57-11-67. Progress reports; termination of study.
57-11-69. Selected industrial feasibility fund.

§ 57-11-61. Short title.

Sections 57-11-61 through 57-11-69 may be cited as "The Selected Industrial Feasibility Law of 1964."

SOURCES: Codes, 1942, § 8939-21; Laws, 1964, ch. 218, § 1, eff from and after passage (approved March 24, 1964).

§ 57-11-63. Preparation of marketing, operating and financial feasibility studies of selected heavy industries.

The Mississippi Agricultural and Industrial Board is hereby authorized and empowered to contract with a firm or firms which are experienced, competent and qualified to make market, operating and financial feasibility studies as may be necessary to accomplish the following:

(a) To make specific marketing, operating and financial feasibility studies of selected heavy industries in the chemical, petrochemical, mineral, wood and pulp-using, and related fields that can properly be constructed and operated in the State of Mississippi to preempt markets that now exist or may exist.

(b) To contract with the firm or firms making such feasibility studies on the basis that they will recommend methods which will promptly cause to be constructed and/or operated, such manufacturing and industrial facilities, or either, as may prove by these studies to be feasible.

SOURCES: Codes, 1942, § 8939-22; Laws, 1964, ch. 218, § 2; Laws, 1966, ch. 236, § 1, eff from and after passage (approved June 16, 1966).

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere

the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-11-65. Contracts and expenditures for feasibility studies; contributions.

(1) The Mississippi Agricultural and Industrial Board is authorized and empowered to contract and pay for the feasibility studies as set out in Section 57-11-63, in such amount or amounts as may be necessary to attain the objectives of Sections 57-11-61 through 57-11-69, provided such commitments and expenditures do not at any time exceed the amount or balance that may be available in a special "selected industrial feasibility fund" maintained in the state treasury through such appropriation as may be subsequently made by the legislature for such purpose, or as received from contributions and funds from various political subdivisions, and area industrial development districts or organizations.

(2) Cities, towns, municipalities, boards of supervisors, and any and all combinations thereof, and area industrial development districts or organizations, are hereby authorized, in the discretion of said political subdivisions and area industrial development districts and organizations, to make contributions to the Mississippi Agricultural and Industrial Board, such funds as said political subdivisions are authorized to use for advertising and industrial promotion purposes, to be deposited into the "selected industrial feasibility fund," and which contributions will be used by the Mississippi Agricultural and Industrial Board for the purposes of making the hereinabove designated feasibility studies, and said studies shall be made available to said contributing political subdivisions, and area industrial development districts or organizations.

SOURCES: Codes, 1942, § 8939-23; Laws, 1964, ch. 218, § 3; Laws, 1966, ch. 236, §§ 2, 3, eff from and after passage (approved June 16, 1966).

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Power of county boards of supervisors and municipal governing authorities to advertise economic opportunities and resources, see §§ 17-3-1, 19-9-103.

Selected industrial feasibility fund created, see § 57-11-69.

§ 57-11-67. Progress reports; termination of study.

The firm or firms which are under contract to make such feasibility studies shall submit progress reports to the Mississippi Agricultural and Industrial Board on each stage of the study, and should any stage of the progress report reflect that the stage or feasibility study shall not be feasible, then the entire study shall be terminated.

SOURCES: Codes, 1942, § 8939-24; Laws, 1964, ch. 218, § 4, eff from and after passage (approved March 24, 1964).

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-11-69. Selected industrial feasibility fund.

There shall be a "selected industrial feasibility fund," which fund shall be maintained in the state treasury as a separate fund. The Mississippi Agricultural and Industrial Board is authorized to receive appropriated funds from the legislature of the State of Mississippi and contributions and funds from the different political subdivisions of this state and area industrial development districts or organizations, and shall deposit all of said funds and contributions into this "selected industrial feasibility fund," and said Mississippi Agricultural and Industrial Board shall, in the manner now required by law, expend from said fund such sums of money necessary for the payment of feasibility studies required in connection with the provisions of Sections 57-11-61 through 57-11-69, so long as there is a balance in the said fund.

SOURCES: Codes, 1942, § 8939-25; Laws, 1964, ch. 218, § 5; Laws, 1966, ch. 236, §§ 4, 5, eff from and after passage (approved June 16, 1966).

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

CHAPTER 13

Research and Development Center

In General 57-13-1
Tax Expenditure Annual Report 57-13-45
Economic Development Programs and Tax Incentives Evaluation Act of 2014 57-13-101

IN GENERAL

Sec.
57-13-1 through 57-13-21. Repealed.
57-13-22. Abolition and transfer of functions, duties, personnel, records, etc., of Mississippi Research and Development Center.
57-13-23. Mississippi Automated Resource Information System (MARIS).

§§ 57-13-1 through 57-13-21. Repealed.

Repealed by Laws, 1988, ch. 518, § 94, eff from and after July 1, 1988.

§§ 57-13-1, 57-13-3. [Codes, 1942, §§ 8946-21 and -22; Laws, 1964, ch. 216, §§ 1, 2]

§ 57-13-5. [Codes, 1942, § 8946-23; Laws, 1964, ch. 216, § 3; Laws, 1984, ch. 495, § 24; Laws, 1984, ch. 488, § 327; Laws, 1985, ch. 474, § 53; Laws, 1986, ch. 438, § 37; Laws, 1986, ch. 500 § 45; Laws, 1987, ch. 483, § 38; Laws, 1988, ch. 442, § 35]

§ 57-13-6. [Laws, 1987, ch. 304]

§ 57-13-7. [Codes, 1942, § 8946-24; Laws, 1964, ch. 216, § 4; Laws, 1974, ch. 563, § 1; Laws, 1984, ch. 488, § 239; Laws, 1986, ch. 336, § 1]

§§ 57-13-9 through 57-13-11. [Codes, 1942, § 8946-25; Laws, 1964, ch. 216, § 5; Laws, 1966, ch. 233, § 3]

§ 57-13-13. [Codes, 1942, § 8946-26; Laws, 1964, ch. 216, § 6; Laws, 1984, ch. 313; Laws, 1984, ch. 488, § 328; Laws, 1985, ch. 438; Laws, 1987, ch. 395]

§ 57-13-15. [Codes, 1942, § 8946-27; Laws, 1964, ch. 216, § 7]

§ 57-13-17. [Codes, 1942, § 8946-28; Laws, 1964, ch. 216, § 8; Laws, 1981, ch. 320, § 1; Laws, 1983, ch. 432; Laws, 1984, ch. 488, § 329; Laws, 1988, ch. 324, § 5]

§ 57-13-19. [Codes, 1942, § 8946-29; Laws, 1964, ch. 216, § 9; Laws, 1984, ch. 488, § 330]

§ 57-13-21. [Codes, 1942, § 8946-30; Laws, 1964, ch. 216, § 10]

Editor's Note — Former § 57-13-1 provided the short title for this chapter; former § 57-13-3 provided the legislative intent.

Former § 57-13-5 created the research and development center and provided for its management and operation, and for the appointment of a director.

Former § 57-13-6 designated a research and development center building as the Paul B. Johnson, Jr. Building.

Former § 57-13-7 specified the functions and duties of the center.

Former § 57-13-9 authorized the solicitation and acceptance of financial support, created the research and development center fund, and authorized expenditures from the fund; former § 57-13-11 authorized the center to cooperate with other planning commissions, and created a planning division.

Former § 57-13-13 provided guidelines for cooperation between the center and other entities.

Former § 57-13-15 authorized the establishment of branch offices by the center.

Former § 57-13-17 created the Mississippi Research and Development Council.

Former § 57-13-19 provided for the compensation of employees of the council, authorized the council to contract for services, and provided the procedures for expenditures.

Former § 57-13-21 provided that the attorney general would be the legal counsel to the center.

§ 57-13-22. Abolition and transfer of functions, duties, personnel, records, etc., of Mississippi Research and Development Center.

(1) The Mississippi Research and Development Center is hereby abolished from and after July 1, 1988. All of the functions of the center shall be transferred on that date to the Mississippi Department of Economic Development or to the University Research Center which is created in Section 37-141-3.

(2)(a) From and after July 1, 1988, the duties and responsibilities of the Research and Development Center which are depicted organizationally in the 1989 fiscal year budget request of the Research and Development Center and which are performed by the Forecast and Analysis Division, the Administration Division, the Government Services Division and the Data Services Division except as provided in subsection 3(b) shall be transferred to the University Research Center.

(b) From and after July 1, 1988, the duties and responsibilities of the Research and Development Center not included in the transfer described in paragraph (a) except as provided in subsection (3)(c) of this section shall be transferred to the Mississippi Department of Economic Development.

(3)(a) All personnel of the Mississippi Research and Development Center shall be transferred to the Department of Economic Development or to the University Research Center according to the transfer of their duties pursuant to this section.

(b) It is specifically provided that the positions identified in items (i), (ii) and (iii) below be transferred to the Department of Economic Development unless the Director of the Research and Development Center and the Executive Director of the Department of Economic Development make mutually agreeable substitutions:

(i) Position identification numbers 60, 174, 244, 98 and 177 of the Administration Unit shall be transferred June 1, 1988.

(ii) Position identification numbers 156, 27, 194, 23, 307 and 308 of the Data Services Unit shall be transferred July 1, 1988.

(iii) Position identification numbers 71, 104 and 148 of the Government Services Division shall be transferred July 1, 1988.

(c) It is specifically provided that position identification numbers 30 and 76 of the Office of the Director of the Research and Development Center be transferred to the University Research Center on July 1, 1988.

(d) It is the intention of the Legislature that there be a reduction in personnel where there is a duplication of effort as a result of the transfers required by this subsection. The Department of Economic Development in its reorganization pursuant to Chapter 518, Laws of 1988 may utilize savings realized from personnel attrition and other economies to reallocate and reclassify positions within the department, subject to the approval of the State Personnel Board.

(e) All personnel transferred to the University Research Center shall become subject to all personnel and compensation policies of the Board of Trustees of State Institutions of Higher Learning; however, anyone so transferred shall retain all of the protection and benefits to which they have been entitled under the state personnel system.

(4) All records, property, unexpended balances of appropriations or other funds, and all other resources of the Mississippi Research and Development Center shall be transferred to the Department of Economic Development or to the University Research Center, as appropriate, pursuant to the transfer of duties and responsibilities in subsection (2) of this section.

(5)(a) Each officer or agency subject to the provisions of Chapter 518, Laws of 1988 shall assist with the fullest degree of reasonable cooperation any other officer or agency in carrying out the intent and purpose of Chapter 518, Laws of 1988.

(b) Each officer or agency subject to the provisions of Chapter 518, Laws of 1988 is hereby authorized and empowered to promulgate all necessary rules and regulations not in conflict with Chapter 518, Laws of 1988 necessary to accomplish an orderly transition pursuant to Chapter 518, Laws of 1988.

SOURCES: Laws, 1988, ch. 518, § 1, eff from and after passage (approved May 16, 1988).

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in (2)(b), by substituting "except as provided in subsection (3)(c) of this section" for "except as provided in (3)(c) of this subsection." The Joint Committee ratified the correction at its August 5, 2008, meeting.

Editor's Note — Section 57-1-2 provides that "Department of Economic Development" shall mean the "Department of Economic and Community Development."

Section 57-1-2 provides that executive director of the Mississippi Department of Economic Development shall mean the executive officer of the Mississippi Department of Economic and Community Development.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Board of Trustees of State Institutions of Higher Learning generally, see §§ 37-101-1 et seq.

University Research Center, see §§ 37-141-1 et seq.

JUDICIAL DECISIONS

1. In general.

Chapter 518 of laws of 1988 abolished any property right that may have existed in favor of plaintiffs, who held positions in Department of Economic Development, in continued employment with Department, regardless of whether any such property right previously existed. State may amend or terminate property interests that it has created, such as employment programs and causes of action, without depriving affected individuals of procedural due process. When state extinguishes, through legislation, property interests, it is said that "legislative determination provides all the process that is due." Buford v. Holladay, 791 F. Supp. 635 (S.D. Miss. 1992), aff'd sub nom. McMurtray v. Hollday, 11 F.3d 499 (5th Cir. 1993).

ATTORNEY GENERAL OPINIONS

Mississippi Research and Development Center was abolished by Miss. Code Section 57-13-22, with Mississippi Department of Economic and Community Development inheriting duties and responsibilities associated with business incubator projects and funds. Craig, Jan. 14, 1993, A.G. Op. #92-0938.

§ 57-13-23. Mississippi Automated Resource Information System (MARIS).

(1) There is hereby created and established the Mississippi Automated Resource Information System (MARIS), (heretofore created by Executive Order No. 459, dated May 26, 1983, as amended by Executive Order No. 562, dated January 15, 1986), which shall be the mechanism within state government for the storing, processing, extracting and disseminating of useful data and information relating to the state's resources.

(2) The goal of MARIS shall be to facilitate the achievement of state agencies' responsibilities as they relate to the development, management, conservation, protection and utilization of the resources of Mississippi by making usable resource data and information more readily available and in a format that is consistent throughout state departments, agencies and institutions, and, to the extent possible, with federal and privately generated resource data banks.

(3) MARIS shall be under the supervision and general policy formulations of a policy committee as the cooperative effort of state departments, agencies and institutions for the sharing of useful data acquired and generated by state agencies in discharging their individual responsibilities.

(4) There is hereby created and established the MARIS Policy Committee composed of the directors or their designees of the following departments, agencies and institutions:

Center for Population Studies, University of Mississippi
Central Data Processing Authority
Department of Agriculture and Commerce

Department of Archives and History
Department of Economic and Community Development
Department of Human Services
Department of Environmental Quality
Department of Wildlife, Fisheries and Parks
Mississippi Department of Transportation
Mississippi Emergency Management Agency
Mississippi Mineral Resources Institute, University of Mississippi
Department of Finance and Administration
Office of the Secretary of State
Public Service Commission
Remote Sensing Center, Mississippi State University
State Forestry Commission
State Department of Health
State Oil and Gas Board
State Soil and Water Conservation Commission
State Tax Commission
University Research Center
Water Management Council.

(5) The MARIS Policy Committee shall elect a chairman, vice-chairman and secretary, and it shall elect an executive committee from the membership of the policy committee to be composed of not less than five (5) nor more than nine (9) members, including the aforesaid officers. The policy committee may elect to the executive committee one (1) person other than from its membership. The policy committee shall determine the authority and responsibility to be exercised by the executive committee.

(6) There is hereby created and established the MARIS Task Force which shall be composed of at least one (1) representative from each of the aforesaid agencies with knowledge in computer applications to natural, cultural, industrial or economic resources to be appointed by the respective directors thereof, and any other persons deemed advisable by the policy committee.

(7) The University Research Center shall house the MARIS equipment and staff and shall provide administrative support for the policy committee and technical support to all member agencies.

(8) It shall be the duty of every department, agency, office and institution of the State of Mississippi, and the officers thereof, to cooperate with and assist the MARIS Policy Committee in every reasonable way.

SOURCES: Laws, 1986, ch. 336, § 2; Laws, 1988, ch. 518, § 54; Laws, 1992, ch. 496, § 38, eff from and after July 1, 1992.

Editor's Note — Section 25-53-3 provides that wherever the terms "Central Data Processing Authority" and "authority", when referring to the Central Data Processing Authority, are used in any law, the same shall mean the Mississippi Department of Information Technology Services.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Cross References — Federal-State programs, see §§ 7-1-251 et seq.

Office of the Secretary of State, see §§ 7-3-1 et seq.

Mississippi Department of Information Technology Services, see §§ 25-53-1 et seq.

Department of Revenue, see §§ 27-3-1 et seq.

Department of Finance and Administration generally, see § 27-104-1 et seq.

Mississippi Emergency Management Agency, see §§ 33-15-1 et seq.

Mississippi State University generally, see §§ 37-113-1 et seq.

University of Mississippi generally, see §§ 37-115-1 et seq.

University Research Center, see §§ 37-141-1 et seq.

Department of Archives and History generally, see §§ 39-5-1 et seq.

State Department of Health generally, see §§ 41-3-1 et seq.

Department of Human Services generally, see §§ 43-1-1 et seq.

Department of Environmental Quality, see §§ 49-2-1 et seq.

Department of Wildlife, Fisheries and Park, see §§ 49-4-1 et seq.

State Forestry Commission, see §§ 49-19-1 et seq.

State Oil and Gas Board, see §§ 53-1-1 et seq.

Mississippi Development Authority generally, see §§ 57-1-1 et seq.

Mississippi Department of Transportation, see §§ 65-1-1 et seq.

Department of Agriculture and Commerce, see §§ 69-1-1 et seq.

State Soil and Water Conservation Commission, see §§ 69-27-1 et seq.

Public Service Commission, see §§ 77-3-1 et seq.

ATTORNEY GENERAL OPINIONS

Section 57-13-23(2), does not on it face, authorize MARIS to develop applications or products for private sector users beyond those that are "privately generated resource data banks". There is no legislative authority to provide services or products to other private sector users for a fee. Davis, April 21, 1995, A.G. Op. #95-0238.

TAX EXPENDITURE ANNUAL REPORT

Sec.	
57-13-45.	Short title.
57-13-47.	Preparation of reports.

§ 57-13-45. Short title.

This section and Section 57-13-47 shall be known as the "Tax Expenditure Annual Report Act."

SOURCES: Laws, 1986, ch. 380, § 1, eff from and after July 1, 1986.

§ 57-13-47. Preparation of reports.

(1) For the purposes of this section the term "tax expenditure provision" means any statutory provision or state agency regulation which exempts, in whole or in part, any specific class or classes of persons, income, goods, services or property from the impact of established state taxes, including, but not limited to, those provisions known as tax deductions, tax allowances, tax exclusions, tax credits and tax exemptions.

(2)(a) The University Research Center shall annually prepare a report detailing the approximate costs in foregone revenue because of all state tax expenditure provisions, including those incorporated by conformance with the Federal Internal Revenue Code, in effect at the time of the report; however, the report to be submitted by November 1, 1986, may include tax expenditures only for sales taxes, use taxes and income taxes, and subsequent reports shall include tax expenditures for all taxes. The report shall also explain the policy purposes for each such tax expenditure provision and may show any indicators of effectiveness or ineffectiveness in achieving such policy purposes. If the Director of the University Research Center determines that preparation of such report shall adversely affect in a material manner any work or projects of the center which are being performed by staff persons preparing the report required by this section, the director may request the Legislative Budget Committee to reduce the requirements of this section as to the contents of the report for one (1) year, but in no event shall the report contain less than the dollar amount of each such tax expenditure required to be included therein.

(b) The report shall include the analyses required by Sections 57-13-101 through 57-13-109.

(3) The University Research Center shall, on or before November 1 of each year, furnish five (5) copies of the report to the Secretary of the Senate and to the Clerk of the House of Representatives, two (2) copies to the Senate Finance and Appropriations Committees and to the House Ways and Means and Appropriations Committees, and a copy to each member of the State Fiscal Management Board and the Legislative Budget Committee. Each member of the Legislature shall be entitled to receive one (1) copy of the report upon request.

(4) All state agencies and all political subdivisions of the State of Mississippi, and the officers and employees thereof, shall cooperate with the center in preparing such report and shall provide any and all information, documents and materials requested by the center.

SOURCES: Laws, 1986, ch. 380, § 2; Laws, 1988, ch. 518, § 55; Laws, 2014, ch. 517, § 6, eff from and after July 1, 2014.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected typographical errors in the internal statutory references. The Joint Committee ratified the correction at its July 24, 2014, meeting.

Editor's Note — Section 27-104-1 provides that the term "Fiscal Management Board" shall mean the "Department of Finance and Administration".

Amendment Notes — The 2014 amendment added (2)(b).

Cross References — Legislative Budget Committee generally, see §§ 27-103-101 et seq.

Department of Finance and Administration, see §§ 27-104-1 et seq.

University Research Center, see §§ 37-141-1 et seq.

Federal Aspects — Provisions of the Federal Internal Revenue Code, see 26 USCS §§ 1 et seq.

ECONOMIC DEVELOPMENT PROGRAMS AND TAX INCENTIVES EVALUATION ACT OF 2014

SEC.
57-13-101. Short title.
57-13-103. Legislative findings and declarations.
57-13-105. Definitions.
57-13-107. Schedule for analysis of economic development tax incentives and economic development programs.
57-13-109. Content of analyses of tax incentives and economic development programs.

§ 57-13-101. Short title.

Sections 57-13-101 through 57-13-109 shall be known and may be cited as the "Economic Development Programs and Tax Incentives Evaluation Act of 2014."

SOURCES: Laws, 2014, ch. 517, § 1, eff from and after July 1, 2014.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected typographical errors in the internal statutory references. The Joint Committee ratified the correction at its July 24, 2014, meeting.

§ 57-13-103. Legislative findings and declarations.

The Legislature finds and declares that:

(a) The State of Mississippi relies on a number of tax incentives, including credits, exemptions, and deductions, and economic development programs that utilize the proceeds of state general obligation bonds to encourage businesses to locate, hire employees, expand, invest, and/or remain in the state;

(b) These various tax incentives and economic development programs are intended as a tool for economic development, promoting new jobs and business growth in Mississippi;

(c) The state needs a systematic approach for evaluating whether incentives are fulfilling their intended purposes in a cost-effective manner;

(d) In order to improve state government's effectiveness in serving the residents of this state, the Legislature finds it necessary to provide for the systematic and comprehensive analysis of economic development tax incentives and economic development programs, and for those analyses to be incorporated into the budget and policymaking processes.

SOURCES: Laws, 2014, ch. 517, § 2, eff from and after July 1, 2014.

§ 57-13-105. Definitions.

(1) As used in Sections 57-13-101 through 57-13-109:

(a) "Economic development tax incentive" includes those tax credits, deductions, exemptions, exclusions, and other preferential tax benefits or incentives enacted before or after July 1, 2014, for the purpose of recruitment or retention of businesses in the State of Mississippi.

(b) "Economic development program" includes those statutory economic development programs that utilize the proceeds of state general obligation bonds for the purpose of recruitment or retention of businesses in the State of Mississippi.

(2) In determining whether a tax incentive or economic development program is or was enacted for "the purpose of recruitment or retention of businesses," the University Research Center shall consider legislative intent, including legislative statements of purpose and goals, and may also consider whether the tax incentive or program is promoted as a business incentive by the Mississippi Development Authority or other state agency.

SOURCES: Laws, 2014, ch. 517, § 3, eff from and after July 1, 2014.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected typographical errors in the internal statutory references. The Joint Committee ratified the correction at its July 24, 2014, meeting.

§ 57-13-107. Schedule for analysis of economic development tax incentives and economic development programs.

(1) In accordance with the following schedule, the tax expenditure report produced by the University Research Center pursuant to Section 57-13-47, shall include an additional component, consistent with Section 57-13-109 and produced in consultation with the Director of the Mississippi Development Authority containing the following:

(a) Analyses of economic development tax incentives and economic development programs as enacted prior to July 1, 2014, shall be completed by December 31, 2015, and no less than once every four (4) years thereafter;

(b) Analyses of any economic development tax incentives and economic development programs created after July 1, 2014, shall be completed within five (5) years of taking effect, and no less than once every four (4) years thereafter.

(2) Not later than the first of February each year beginning with 2016, the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee shall consider the tax expenditure report and

hold at least one public hearing to deliberate the results of the analysis required in this section.

SOURCES: Laws, 2014, ch. 517, § 4, eff from and after July 1, 2014.

§ 57-13-109. Content of analyses of tax incentives and economic development programs.

(1) The analysis of tax incentives as required by Section 57-13-107 shall include, but not be limited to:

(a) A baseline assessment of the tax incentive, including, if applicable, the number of aggregate jobs committed and created with the taxpayers receiving such tax incentive;

(b) The statutory and programmatic goals and intent of the tax incentive, if the goals and intentions are included in the incentive's enabling legislation;

(c) The number of taxpayers granted the tax incentive during the previous twelve-month period;

(d) The value of the tax incentive granted, and ultimately claimed, listed by the North American Industrial Classification System (NAICS) Code associated with the taxpayers receiving the benefit, if the NAICS Code is available;

(e) An estimate of the number of jobs that were the direct and indirect result of the incentive;

(f) An estimate of the revenues that were the direct and indirect result of the incentive;

(g) In the case of economic development tax incentives where measuring the economic impact is significantly limited due to data constraints, provide a description of the limitations on the data used and whether any changes in statute would facilitate data collection in a way that would allow for better analysis;

(h) The methodology and assumptions used in carrying out the assessments, projections and analyses required pursuant to this subsection.

(i) When an incentive comparative analysis is conducted on behalf of the state, a final copy shall be submitted to the Chairman of the Senate Finance Committee and Chairman of the House Ways and Means Committee and also submitted with copies of this report.

(2) The analysis of economic development programs as required by Section 57-13-107 shall include, but not be limited to, an analysis of the impact of the program which shall include a calculation of the costs related to the assistance provided under the program and corresponding benefits to the state derived from economic development related to the program, including, but not limited to, capital investment, job creation, job retention and/or increased tax revenue.

(3) All departments, offices, boards, and agencies of the state shall cooperate with the University Research Center and shall provide to the University Research Center any records, information (documentary and oth-

erwise), data and data analysis as may be necessary to complete the analysis required by this section.

SOURCES: Laws, 2014, ch. 517, § 5, eff from and after July 1, 2014.

CHAPTER 15

Marine Resources

Sec.
57-15-1. Legislative declaration.
57-15-3. Transfer of functions of Mississippi Marine Resources Council to Mississippi Commission on Marine Resources; office; construction of references.
57-15-5. Purpose; general powers and duties.
57-15-6. Coastal program.
57-15-7. Objectives.
57-15-9. Advisory functions.
57-15-10. Adoption, etc., of regulations governing marine resources by Commission on Marine Resources; effect of regulations of Commission on Wildlife, Fisheries and Parks.
57-15-11 through 57-15-15. Repealed.
57-15-17. Minutes of proceedings.

§ 57-15-1. Legislative declaration.

The Legislature hereby declares that this chapter is being enacted under the state's inherent general welfare and police power authority for the broad purposes hereinafter set forth in an effort to explore, develop, conserve and market the underwater natural resources of this state, particularly those lying offshore in the coastal waters of the State of Mississippi.

SOURCES: Codes, 1942, § 8946-160; Laws, 1970, ch. 293, § 10, eff from and after passage (approved April 3, 1970).

§ 57-15-3. Transfer of functions of Mississippi Marine Resources Council to Mississippi Commission on Marine Resources; office; construction of references.

(1) The Mississippi Commission on Marine Resources, hereinafter referred to as the "council," shall be the Mississippi Marine Resources Council, and shall function insofar as practicable under the provisions of Chapter 15 of Title 49, Mississippi Code of 1972, in cooperation with the Mississippi Department of Economic and Community Development and the Board of Trustees of State Institutions of Higher Learning, with particular reference to the Gulf Coast Research Laboratory, the Universities Marine Center, and the universities and colleges which are conducting oceanographic research. The offices of the commission shall be located in Hancock, Harrison or Jackson Counties.

(2) The words "Mississippi Marine Resources Council," wherever they may appear in the laws of the State of Mississippi, shall be construed to mean the Mississippi Commission on Marine Resources.

SOURCES: Codes, 1942, § 8946-151; Laws, 1970, ch. 293, § 1; Laws, 1978, ch. 484, § 25; Laws, 1988, ch. 518, § 56; Laws, 1994, ch. 578, § 63, eff from and after July 1, 1994.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Board of Trustees of State Institutions of Higher Learning, see §§ 37-101-1 et seq.

Marine research laboratory, see § 37-101-19.

Gulf Coast Research Laboratory, see § 37-101-21.

Mississippi Commission on Marine Resources generally, see §§ 49-15-9 et seq.

§ 57-15-5. Purpose; general powers and duties.

(1) It is hereby declared to be the intent of the Legislature by this chapter that the policy of the council hereby created shall be conducted according to the following guidelines: the council shall have the general purpose and policy of studying and developing plans, proposals, reports and recommendations for the development and utilization of the coastal and offshore lands, waters and marine resources of this state in order to insure that all future plans and/or programs of the State of Mississippi involving the field of marine resources and sciences, oceanographic research, and related studies, will be coordinated with comparable functions and programs of agencies of the United States government. The council shall further have the purpose and policy to help coordinate, as hereinabove provided, all plans of other agencies of this state engaged in similar activities and of the various states of the United States of America, and also with all private agencies whose purpose is marine science and resource development. The council is further authorized to enter into contract with any state or federal agency as may be necessary and requisite to carry out the purposes of this chapter. The council shall have the responsibility for the general management of the state's wetlands.

(2) The council is authorized and empowered to solicit and accept financial support from sources other than the state, including private or public sources or foundations. All funds received by or appropriated to the council shall be deposited upon receipt thereof into a special fund in the State Treasury to be known and designated as the "Mississippi Marine Resources Fund." Expenditures from said fund shall be made in the following manner: expenditures by and for the council for the purpose of carrying out its functions as provided by law shall be made with the approval of the council at any meeting upon requisitions presented to the State Auditor in the manner provided by law, and paid by the State Treasurer. Full and complete accounting shall be kept and made by the council for all funds received and expended by it. Representatives of the office of the State Auditor of Public Accounts annually shall audit the expenditure of funds received by the council from all sources and the said auditor shall make a complete and detailed report of such

audit to the Legislature. It is further provided that all state appropriated funds expended shall conform to all requirements of law as provided for expenditures.

(3) The council may solicit, receive and expend contributions, matching funds, gifts, bequests and devises from any source, whether federal, state, public or private, as authorized by annual appropriations therefor.

(4) The council may enter into agreements with federal, state, public or private agencies, departments, institutions, firms, corporations or persons to carry out its policies as provided for in this chapter. To accomplish these goals, the council may expend any such sums from any source as herein provided.

The agreements provided for in this subsection shall include, but not be limited to, the following provisions:

(a) The duration of the agreement;

(b) The purpose of the agreement;

(c) A description of the procedures to be used in carrying out the purpose of the agreement; and

(d) Provisions for termination of the agreement.

Any entity entering into such an agreement shall comply with the provisions therein.

(5) The council is authorized and empowered to accept financial support from any federal outer continental shelf revenue sharing programs. All funds received from such programs shall be deposited upon receipt thereof into a special trust fund in the State Treasury to be known and designated as the "Outer Continental Shelf Trust Fund." Expenditures from said fund shall be made for the benefit of any project affecting any county in the State of Mississippi which borders on the Gulf of Mexico with the approval of the Legislature.

(6) The council may contract with other governmental agencies and third parties for the acquisition and management of lands and properties for inclusion in the "Coastal Preserve System." For purposes of these contracts with other governmental agencies or third parties and the expenditure of funds pursuant to the contracts, the "Coastal Preserve System" as defined by the council shall be deemed to be a part of the ecosystems of the Public Trust Tidelands. Contracts authorized under this section may provide funds for the management of properties included in the "Coastal Preserve System."

(7) There is established a special account to be known as the "Coastal Preserve System Timber Account" within the Mississippi Marine Resources Fund. Any funds received from the salvage or harvesting of timber or sale of other forest products from lands included in or managed as a part of the Coastal Preserve System shall be credited to the account. Any unexpended funds remaining in the account at the end of the year shall not lapse, but shall remain in the account. The account shall be treated as a special trust fund and interest earned on the principal shall be credited to the account. Any funds in the account may be expended, subject to the approval of the Legislature, for the management and improvement of the Coastal Preserve System and for the acquisition of additional lands for inclusion in the Coastal Preserve System.

SOURCES: Codes, 1942, § 8946-152; Laws, 1970, ch. 293, § 2; Laws, 1978, ch. 420, § 1; Laws, 1979; ch. 492, § 4; Laws, 1984, ch. 488, § 240; Laws, 2003, ch. 398, § 1; Laws, 2007, ch. 346, § 1, eff from and after passage (approved Mar. 15, 2007.)

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer whenever they appear.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

Section 57-15-3 provides that references to the Marine Resources Council shall mean the Commission on Marine Resources.

Laws of 1979, ch. 492, § 1, effective from and after April 18, 1979, provides as follows:

"SECTION 1. It is the intent of the legislature:

"(a) That the economic, environmental, scenic, historical and archaeological resources of the coastal area should be protected or utilized, as appropriate, in the best interests of the citizens of Mississippi;

"(b) That the processing and issuing of permits, licenses and other such instruments should be streamlined to reduce costly delays;

"(c) That duplication of effort and unnecessary governmental red tape should be eliminated; and

"(d) That state policy should be carried out in an effective, efficient, predictable and consistent manner."

Cross References — Member of a board, commission, council or authority changing domicile after appointment, see § 7-13-9.

Use of agreements authorized by this section as means for implementing one-stop permitting, see § 57-15-6.

§ 57-15-6. Coastal program.

(1) In recognition of the Coastal Zone Management Act of 1972, as amended, the council is directed to prepare and implement a coastal program that establishes guidelines and procedures pursuant to the following goals:

(a) To provide for reasonable industrial expansion in the coastal area and to insure the efficient utilization of waterfront industrial sites so that suitable sites are conserved for water dependent industry;

(b) To conserve the resources of the coastal area for this and succeeding generations in accordance with the public policies expressed in Sections 39-7-3, 49-15-1, 49-17-3, 49-27-3 and 51-3-1, Mississippi Code of 1972;

(c) To consider the national interest involved in planning for and in the siting of facilities in the coastal area;

(d) To encourage the preservation of natural scenic qualities in the coastal area;

(e) To assist local governments in the provisions of public facilities and services in a manner consistent with the coastal program; and

(f) To insure the effective, coordinated implementation of public policy in the coastal area of Mississippi comprised of Hancock, Harrison and Jackson Counties.

(2) It is the intent of the Legislature that the coastal program described in subsection (1) of this section should comprise a statement of consolidated state

policy in the coastal area, incorporating all applicable constitutional provisions, laws and regulations of the State of Mississippi. Where the coastal program includes provisions that are otherwise under the jurisdiction of another state agency, the coastal program shall not conflict with such agency's jurisdiction.

(3) In addition to the powers and duties now conferred upon them by law, all state agencies shall carry out their responsibilities in the coastal area in compliance with the coastal program described in subsection (1) of this section unless otherwise prohibited by law. The coastal program shall include procedures by which conflicts between state agencies concerning their compliance with the coastal program may be resolved. Further, the council shall establish in the program procedures to review and coordinate any decisions affecting the coastal area so that all state agencies and other interested parties will have the opportunity to participate in such decisions.

(4) In cooperation with other agencies having responsibilities in the coastal area, the council shall seek to develop "one-stop permitting" to coordinate the processing and issuing of permits, licenses and other such instruments in the coastal area. It is the intent of the legislature that one-stop permitting shall expedite the decision making of all governmental entities having separate regulatory jurisdiction or authority over activities in the coastal area without impinging on the regulatory jurisdiction or authority of these governmental entities.

One-stop permitting shall be implemented by means of the agreements authorized in subsection (4) of Section 57-15-5, and shall provide for the following:

(a) A single application form for all required permits or approvals from governmental entities in the coastal area; such application form shall contain sufficient information so that the necessary reviews of all affected governmental entities can be expeditiously carried out;

(b) Consolidated public hearings so that a single public hearing may serve to meet the requirements of the several public hearings as may now be provided by law for issuing a permit, license or other such instrument in the coastal area;

(c) The shortest practicable review period for applications, proper allowances being made for all interested parties to become informed and to make their opinions heard by the appropriate agencies; and

(d) Joint permitting procedures for state and federal agencies.

The one-stop permitting provided for in this subsection shall not alter the powers, duties and responsibilities of any governmental entity, its expressed purpose being to improve the procedural operations of these entities.

(5) After consultation with county port authorities, development commissions, and port and harbor commissions having jurisdiction in the coastal area, the council shall prepare as part of the coastal program a long-term plan for the development of suitable sites for water dependent industry. The council shall include in this plan provisions for the disposal of spoil material from dredging operations. In designating suitable sites for water dependent indus-

try, the council shall consider the nature and extent of specific alterations that would serve a higher public interest pursuant to the development of these sites.

(6) Where necessary to implement the coastal program described in subsection (1) of this section, the council may acquire real or personal property by purchase, condemnation, lease or agreement as authorized from time to time by the legislature.

SOURCES: Laws, 1979, ch. 492, § 5, eff from and after passage (approved April 18, 1979).

Editor's Note — Section 57-15-3 provides that references to the Marine Resources Council shall mean the Commission on Marine Resources.

Laws of 1979, ch. 492, §§ 1 and 6, effective from and after April 18, 1979, provide as follows:

"SECTION 1. It is the intent of the Legislature:

"(a) That the economic, environmental, scenic, historical and archaeological resources of the coastal area should be protected or utilized, as appropriate, in the best interests of the citizens of Mississippi;

"(b) That the processing and issuing of permits, licenses and other such instruments should be streamlined to reduce costly delays;

"(c) That duplication of effort and unnecessary governmental red tape should be eliminated; and

"(d) That state policy should be carried out in an effective, efficient, predictable and consistent manner."

"SECTION 6. Permits issued pursuant to the existing statutory authority of the state oil and gas board for the location, drilling, exploration and production of oil, gas and other minerals shall be issued in lieu of any other permits required under this act; provided, however, that the state oil and gas board shall insure that all activities so permitted within the affected coastal area are consistent with the guidelines and procedures provided for under this act."

Federal Aspects — The Coastal Zone Management Act of 1972, which is referred to in this section, is codified as 16 USCS §§ 1451 et seq.

JUDICIAL DECISIONS

1. In general.

Lands under nonnavigable waters subject to ebb and flow of tide are within public trust given to states upon their entry into Union; therefore, state had power to issue oil and gas leases for those lands despite claims of private claimants who traced their record title to lands to prestatehood spanish land grants. Phillips Petro. Co. v. Mississippi, 484 U.S. 469, 108 S. Ct. 791, 98 L. Ed. 2d 877 (1988), reh'g denied, 486 U.S. 1018, 108 S. Ct. 1760, 100 L. Ed. 2d 221 (1988).

RESEARCH REFERENCES

Law Reviews. 1987 Mississippi Supreme Court Review: Of time, tidelands, and public trust. 57 Miss. L. J. 131, April 1987.

§ 57-15-7. Objectives.

The council exercising the prerogatives and functions as set out in Section 57-15-5, shall have as the aim for the State of Mississippi to provide for effective, efficient and economic development of marine resources available to the State of Mississippi, and to cause suitable skilled professionals and labor to harness the marine resources of this state's coastal, offshore and water resources toward achieving the highest economic growth potential possible through modern concepts and technology in the oceanographic field and scientific discovery of underwater marine resources. To accomplish these goals, the council shall carry out or cause to be carried out continuing study of the science of oceanography as it relates to Mississippi, and the development of a long-range oceanographic program for the State of Mississippi.

SOURCES: Codes, 1942, § 8946-153; Laws, 1970, ch. 293, § 3, eff from and after passage (approved April 3, 1970).

Editor's Note — Section 57-15-3 provides that references to the Marine Resources Council shall mean the Commission on Marine Resources.

Cross References — Research relevant to the management and utilization of the forest, wildlife and fisheries resources of the state, see §§ 57-18-1 et seq.

§ 57-15-9. Advisory functions.

The council, exercising its duties and responsibilities, shall also act in an advisory capacity to the Governor and all related state agencies, including the Board of Trustees of State Institutions of Higher Learning, the Gulf Coast Research Laboratory and the Universities Marine Center which are conducting oceanographic research. All state boards and agencies engaged in activities in the field of marine resources and technology shall utilize this commission as a clearinghouse on all present and future joint federal-state programs whether presently administered by an existing agency or not; to advise on the best programs available to the State of Mississippi for the development of its marine resources, and how to apply for, receive or hold any and all such authorizations, licenses and grants necessary and proper therefor; to advise on the utilization of all facilities in the State of Mississippi for marine research and development, such as the future maximum utilization of the NASA-Mississippi Test Facility, but not limiting the provisions of this chapter exclusively thereto; and to advise on all in-depth studies necessary to carry out the provisions of this chapter. This chapter shall not, however, abrogate the authority of the Mississippi Commission on Marine Resources, the Board of Trustees of State Institutions of Higher Learning or the Gulf Coast Research Laboratory, the Universities Marine Center, or of the individual institutions under the board's control to apply for grants, and to carry out oceanographic research. Said council is hereby authorized to receive services, gifts, contributions, property and equipment from public and private sources to be utilized in the discharge of the council's functions, all to be done within the purview of this chapter.

SOURCES: Codes, 1942, § 8946-154; Laws, 1970, ch. 293, § 4; Laws, 2000, ch. 516, § 127, eff from and after passage (approved Apr. 30, 2000.)

Editor's Note — Section 57-15-3 provides that references to the Marine Resources Council shall mean the Commission on Marine Resources.

Cross References — Board of Trustees of State Institutions of Higher learning, see §§ 37-101-1 et seq.

Marine research laboratory, see § 37-101-19.

Gulf Coast Research Laboratory, see § 37-101-21.

Mississippi Commission on Marine Resources generally, see §§ 49-15-9 et seq.

§ 57-15-10. Adoption, etc., of regulations governing marine resources by Commission on Marine Resources; effect of regulations of Commission on Wildlife, Fisheries and Parks.

(1) The Commission on Marine Resources may adopt, modify or repeal regulations to manage any matter pertaining to the marine resources of the state, unless the matter is governed by statute.

(2) Regulations of the Commission on Marine Resources shall supersede like regulations adopted by the Commission on Wildlife, Fisheries and Parks under its former powers related to the management of marine resources.

SOURCES: Laws, 1995, ch. 458, § 1, eff from and after passage (approved March 21, 1995).

§§ 57-15-11 through 57-15-15. Repealed.

Repealed by Laws, 1978, ch. 484, § 26, eff from and after July 1, 1979. [Codes, 1942, §§ 8946-155 to 157; Laws, 1970, ch. 293, §§ 5-7]

Editor's Note — Former § 57-15-11 specified the membership and organization of the council, and the terms of office and quorum requirements for its members; former § 57-15-13 specified meeting times and the compensation to be paid members; and former § 57-15-15 provided for the appointment and compensation of employees and an executive director.

§ 57-15-17. Minutes of proceedings.

The executive director of the council shall keep regular and accurate minutes of the council's proceedings in a minute book provided for that purpose which shall be a public record and all findings and recommendations and acts of the said council shall be entered upon its minutes as may be necessary for its official acts, deeds, expenditures and other major objectives to be in keeping with established state agencies.

SOURCES: Codes, 1942, § 8946-158; Laws, 1970, ch. 293, § 8, eff from and after passage (approved April 3, 1970).

Editor's Note — Section 57-15-3 provides that references to the Marine Resources Council shall mean the Commission on Marine Resources.

CHAPTER 17

Forest Products Utilization Laboratory
[Repealed]

§§ 57-17-1 through 57-17-15. Repealed.

Repealed by Laws, 1994, ch. 488, § 7, eff from and after July 1, 1994 [Codes, 1942, § 6699-41 to -48; Laws, 1964, ch. 244, §§ 1-8]

Editor's Note — Former §§ 57-17-1 through 57-17-15, pertained to the Forest Products Utilization Law of 1964. For similar provisions, see §§ 57-18-1 et seq.

CHAPTER 18

Renewable Natural Resources Research Act of 1994

Sec.

57-18-1.	Short title.
57-18-3.	Legislative findings and declarations.
57-18-5.	Establishment of Forest and Wildlife Research Center at Mississippi State University; purpose; transfer of research functions from other agencies; transfer of personnel and funds.
57-18-7.	Provision of buildings, equipment, personnel, supplies and services for Center.
57-18-9.	Authority for Center to receive contributions, donations, gifts and grants of money and/or property, equipment, materials and manpower.
57-18-11.	Authority of Center to conduct research on contractual basis for public or private entities or persons for fee; cooperation between Center and state agencies and departments.

§ 57-18-1. Short title.

This chapter shall be known, and may be cited, as the Renewable Natural Resources Research Act of 1994.

SOURCES: Laws, 1994, ch. 488, § 1, eff from and after July 1, 1994.

§ 57-18-3. Legislative findings and declarations.

The Legislature finds and declares:

(a) That the economic progress of Mississippi depends in large measure upon the development and wise use of the natural resources of this state;

(b) That the forest, wildlife and fisheries resources in this state constitute a vital segment of the natural resources available in Mississippi;

(c) That the forest, wildlife and fisheries resources, when properly managed and efficiently utilized, contribute significantly to the economic well being of Mississippi;

(d) That forestry, wildlife and related natural resource research programs can be coordinated, integrated and strengthened in a more efficient and effective manner when funded and managed jointly within a single administrative unit;

(e) That there is a present and increasing need for additional knowledge of natural resource management and utilization practices, the impact of such practices on the long-term viability of forest, wildlife and fishery resources, and the interrelationship between natural resource management and utilization practices and those aspects of environmental quality associated with the state's forest and water resources; and

(f) That this chapter is specifically designed to consolidate within a single administrative unit diverse programs of research which address the forest, wildlife and fisheries resources of the state and the management and utilization thereof.

SOURCES: Laws, 1994, ch. 488, § 2, eff from and after July 1, 1994.

§ 57-18-5. Establishment of Forest and Wildlife Research Center at Mississippi State University; purpose; transfer of research functions from other agencies; transfer of personnel and funds.

(1) The Board of Trustees of State Institutions, of Higher Learning is authorized and directed to establish a Forest and Wildlife Research Center at Mississippi State University. The center will be an administrative unit within the Division of Agriculture, Forestry and Veterinary Medicine. The Dean of the School of Forest Resources shall serve as the director of the center.

(2) The center shall conduct a program of research relevant to the efficient management and utilization of the forest, wildlife and fisheries resources of this state and to the protection and enhancement of the natural environment associated with those resources. The center shall disseminate results of such research programs to the public and to individuals and organizations for whom such information will be useful. The center shall conduct research that will encourage the growth and development of the furniture manufacturing industry and allied industries in this state and shall work closely with the Mississippi Cooperative Extension Service, the University Research Center, the Mississippi Department of Economic and Community Development and other agencies, both public and private, in the dissemination of its research findings.

(3) From and after the creation of the Forest and Wildlife Research Center, the center shall assume all research functions which are being exercised within the Division of Agriculture, Forestry and Veterinary Medicine by the Forest Products Utilization Laboratory, by the Department of Forestry, by the Department of Wildlife and Fisheries, by the Furniture Research Unit and, upon the recommendation of the President of Mississippi State University to the Board of Trustees of State Institutions of Higher Learning, by other departments and units of the university.

(4) All records, personnel, property and unexpended balances of appropriations, allocations or other funds relating to those research functions which are being assumed by the center shall be transferred to the center. The transfer of segregated or special funds shall be made in such a manner that the relation between program and revenue source is retained.

SOURCES: Laws, 1994, ch. 488, § 3, eff from and after July 1, 1994.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Board of Trustees of State Institutions of Higher learning, see §§ 37-101-1 et seq.

Mississippi State University generally, see §§ 37-113-1 et seq.
University Research Center, see §§ 37-141-1 et seq.

§ 57-18-7. Provision of buildings, equipment, personnel, supplies and services for Center.

The Board of Trustees of State Institutions of Higher Learning shall provide for the Forest and Wildlife Research Center such buildings, equipment, personnel, supplies and services as it shall determine to be necessary for the proper operation and maintenance of the center, having due regard for the contributory facilities and programs already existing at Mississippi State University.

SOURCES: Laws, 1994, ch. 488, § 4, eff from and after July 1, 1994.

Cross References — Board of Trustees of State Institutions of Higher learning, see §§ 37-101-1 et seq.
Mississippi State University generally, see §§ 37-113-1 et seq.

§ 57-18-9. Authority for Center to receive contributions, donations, gifts and grants of money and/or property, equipment, materials and manpower.

In addition to appropriations made by the Legislature from the State General Fund, the Forest and Wildlife Research Center is authorized and empowered, subject to the approval of the Board of Trustees of State Institutions of Higher Learning upon recommendation by the President of Mississippi State University, to receive contributions, donations, gifts and grants of money and/or property, equipment, materials and manpower from persons, foundations, trust funds, corporations, organizations, and state and federal agencies for use in carrying out the purposes and objectives of this chapter.

SOURCES: Laws, 1994, ch. 488, § 5, eff from and after July 1, 1994.

Cross References — Board of Trustees of State Institutions of Higher learning, see §§ 37-101-1 et seq.
Mississippi State University generally, see §§ 37-113-1 et seq.

§ 57-18-11. Authority of Center to conduct research on contractual basis for public or private entities or persons for fee; cooperation between Center and state agencies and departments.

(1) Personnel of the Forest and Wildlife Research Center are also authorized, subject to policies and procedures in force at Mississippi State University, to conduct research on a contractual basis for industries, governmental agencies, public or private organizations or corporations, and individuals at a price and on a basis to be determined by such personnel. Proceeds derived from

such research shall be used, in addition to other funds provided from the State General Fund, for the operation and support of the center.

(2) The personnel of the center shall cooperate fully with the various departments of state government, with the colleges and universities of the state, with the Mississippi Agriculture and Forestry Experiment Station, with the University Research Center and with the Mississippi Department of Economic and Community Development in an effort to fully effectuate the purposes of this chapter. All state agencies and departments are authorized and directed to give the center and its personnel their full cooperation in every possible manner.

SOURCES: Laws, 1994, ch. 488, § 6, eff from and after July 1, 1994.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Mississippi State University generally, see §§ 37-113-1 et seq.

University Research Center, see §§ 37-141-1 et seq.

Mississippi Development Authority generally, see §§ 57-1-1 et seq.

CHAPTER 19

Food Technology Laboratory

Sec.
57-19-1. Short title.
57-19-3. Legislative findings and declarations.
57-19-5. Establishment of laboratory.
57-19-7. Provisions of buildings, personnel, supplies, etc., for laboratory.
57-19-9. Functions.
57-19-11. Acceptance of contributions, donations, gifts and grants.
57-19-13. Cooperation with other state agencies.
57-19-15. Advisory board.
57-19-17. Conduct of research on contractual basis for industries, governmental agencies, etc.

§ 57-19-1. Short title.

This chapter may be cited as the "Food Technology Laboratory Law of 1968."

SOURCES: Codes, 1942, § 6699-61; Laws, 1968, ch. 239, § 1, eff from and after passage (approved May 29, 1968).

§ 57-19-3. Legislative findings and declarations.

The Legislature hereby finds and declares:

(a) That the economic progress of Mississippi depends in large measure upon the wise and most feasible use of our agricultural land, and other natural resources of the state;

(b) That food and food products grown and produced in this state substantially utilize a portion of our agricultural lands and other natural resources;

(c) That food and food products when continually improved and more effectively utilized can contribute substantially to the total economic development of Mississippi;

(d) That there is a tremendous need for additional knowledge about the production, harvesting, handling, grading, preparing, processing, storing, shipping and merchandising of food and food products; and

(e) That this chapter is specifically designed to establish a program for the discovery and dissemination of knowledge concerning food and food products and the uses thereof.

SOURCES: Codes, 1942, § 6699-62; Laws, 1968, ch. 239, § 2, eff from and after passage (approved May 29, 1968).

§ 57-19-5. Establishment of laboratory.

The board of trustees of state institutions of higher learning is hereby authorized and directed to establish a food technology program at Mississippi State University of Agriculture and Applied Science under the direction of the president and such other administrative authorities within the university as said board of trustees may determine.

SOURCES: Codes, 1942, § 6699-63; Laws, 1968, ch. 239, § 3, eff from and after passage (approved May 29, 1968).

Cross References — Powers and duties of board of trustees of state institutions of higher learning, see § 37-101-15.

Mississippi State University generally, see §§ 37-113-1 et seq.

§ 57-19-7. Provisions of buildings, personnel, supplies, etc., for laboratory.

The board of trustees of state institutions of higher learning shall provide for such food technology laboratory, such building, pilot processing facilities, personnel, supplies, and services as it shall determine to be necessary for the proper operation and maintenance of the food technology program, having due regard for the contributory facilities and programs already existing at Mississippi State University of Agriculture and Applied Science.

SOURCES: Codes, 1942, § 6699-64; Laws, 1968, ch. 239, § 4, eff from and after passage (approved May 29, 1968).

Cross References — Board of Trustees of State Institutions of Higher learning, see §§ 37-101-1 et seq.

Mississippi State University generally, see §§ 37-113-1 et seq.

§ 57-19-9. Functions.

It shall be the function of the laboratory to conduct a program of research which will provide solutions to problems of the food industry in Mississippi as well as some basic research which is primarily concerned with the development of new knowledge in food science, and to disseminate its findings to the public through classroom teaching and through an active extension program which will be available to all individuals and agencies for whom such knowledge will be helpful and useful.

SOURCES: Codes, 1942, § 6699-65; Laws, 1968, ch. 239, § 5, eff from and after passage (approved May 29, 1968).

§ 57-19-11. Acceptance of contributions, donations, gifts and grants.

In addition to appropriations made by the Mississippi Legislature for the operation and support of the laboratory, the board of trustees of state institutions of higher learning is authorized and empowered to receive contributions, donations, gifts and grants of money and/or property, equipment, materials or manpower from persons, foundations, trust funds, corporations, organizations, the federal government or any subdivision thereof, the state government or any subdivision thereof, to be expended by said board in carrying out the purposes and objectives of this chapter.

SOURCES: Codes, 1942, § 6699-66; Laws, 1968, ch. 239, § 6, eff from and after passage (approved May 29, 1968).

Cross References — Board of Trustees of State Institutions of Higher learning, see §§ 37-101-1 et seq.

§ 57-19-13. Cooperation with other state agencies.

The laboratory personnel shall fully cooperate with the State Department of Agriculture, with the Mississippi Department of Economic Development, with the University Research Center, with the colleges and universities of the state, and with other various departments of state government in an effort to fully effectuate the purposes of this chapter. All state agencies and departments are hereby authorized and directed to give the laboratory and its personnel their full cooperation in every possible manner.

SOURCES: Codes, 1942, § 6699-67; Laws, 1968, ch. 239, § 7; Laws, 1988, ch. 518, § 58, eff from and after July 1, 1988.

Editor's Note — Section 57-1-2 provides that "Department of Economic Development" shall mean the "Department of Economic and Community Development."

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — University Research Center, see §§ 37-141-1 et seq.

Department of agriculture and commerce generally, see §§ 69-1-1 et seq.

§ 57-19-15. Advisory board.

The program conducted by the food technology laboratory shall be subject to review by a food technology advisory board appointed by the governor. The director of the Mississippi Cooperative Extension Service shall serve as chairman of this committee. The membership will be composed of five (5) members representing the food processing industry in the state, five (5) members representing food producers in the state, and two (2) members of the legislature of the State of Mississippi. Committee members will serve for four (4) years on a rotating basis.

SOURCES: Codes, 1942, § 6699-68; Laws, 1968, ch. 239, § 8, eff from and after passage (approved May 29, 1968).

§ 57-19-17. Conduct of research on contractual basis for industries, governmental agencies, etc.

The laboratory personnel may, at their discretion, and subject to the approval of the proper administrative authorities at Mississippi State University of Agriculture and Applied Science, do research on a contract or project basis for industries, governmental agencies, public or private organizations or corporations, or any other, at a price and on a basis to be determined by the aforesaid personnel. The proceeds derived from such research projects shall be used, in addition to other funds provided therefor, for the operation and support of the laboratory.

SOURCES: Codes, 1942, § 6699-69; Laws, 1968, ch. 239, § 9, eff from and after passage (approved May 29, 1968).

CHAPTER 21

State Chemical Laboratory

Sec.	
57-21-1.	Short title.
57-21-3.	Establishment.
57-21-5.	Location; provision of buildings and services.
57-21-7.	State chemist.
57-21-9.	Purposes.
57-21-11.	Organization.
57-21-13.	Personnel.
57-21-15.	Funding.

§ 57-21-1. Short title.

This chapter shall be known as the "Mississippi State Chemical Laboratory Authorization Law of 1970."

SOURCES: Codes, 1942, § 6699-101; Laws, 1970, ch. 259, § 1, eff from and after passage (approved April 6, 1970).

Cross References — State Chemist, see § 57-21-7.

Fertilizer Law of 1970, see §§ 75-47-1 et seq.

Powers and duties of the State Chemist concerning petroleum products, see § 75-55-3.

§ 57-21-3. Establishment.

This chapter hereby creates and duly authorizes the operation of the Mississippi State Chemical Laboratory, hereinafter referred to as the laboratory, in the State of Mississippi. Its organization, purposes, funding, location, chief executive officer, and duties are set out in the following sections.

SOURCES: Codes, 1942, § 6699-102; Laws, 1970, ch. 259, § 2, eff from and after passage (approved April 6, 1970).

§ 57-21-5. Location; provision of buildings and services.

The laboratory shall be located on the main campus of Mississippi State University of Agriculture and Applied Science, hereinafter referred to as the university. Housing and facilities of the laboratory shall be in the university chemistry department building or in separate quarters nearby in a building or buildings provided by legislative appropriation. The university shall provide building and facilities maintenance, utilities, fiscal, purchasing, data processing, collection, and delivery services and all other services and equipment available to other departments.

The laboratory shall pay for such services or equipment from its funds at rates mutually agreed upon by university and laboratory representatives, but not to exceed those charged other departments of the university.

SOURCES: Codes, 1942, § 6699-103; Laws, 1970, ch. 259, § 3, eff from and after passage (approved April 6, 1970).

Cross References — Mississippi State University generally, see §§ 37-113-1 et seq.

§ 57-21-7. State chemist.

The chief executive officer of the laboratory shall be the State Chemist.

(a) **Qualifications:** — The State Chemist shall be an individual who has earned the Doctor of Philosophy degree or its equivalent at a recognized university or college qualified to grant such degrees. The major field of his or her training should be preferably in traditional or applied fields of chemistry or biochemistry, but other disciplines may be acceptable if the individual has experience qualifying him or her otherwise. He or she should also have knowledge by training or experience of agricultural, industrial or health-related fields. The candidate for State Chemist must be acceptable as a faculty member in a department of the university appropriate to his or her earned doctorate degree.

(b) **Appointment:** — The State Chemist shall be appointed by the president of the university, with the advice and consent of the Senate, for a term of six (6) years; and the said State Chemist shall serve for said six-year term and until his successor shall have been appointed and qualified. However, it is provided that the said State Chemist may be removed from office by the Board of Trustees of State Institutions of Higher Learning upon the demonstration of his inability to serve due to illness, incompetence, malfeasance in office, dereliction of duty or moral turpitude. The Board of Trustees of State Institutions of Higher Learning shall fix the annual salary of the State Chemist, who shall be paid from the budget of the Mississippi State Chemical Laboratory or from the budget of the university, or from both, whichever is deemed desirable by the Board of Trustees of State Institutions of Higher Learning.

(c) **Status:** — The State Chemist shall simultaneously hold an appointment as professor in a department of the university appropriate to the discipline of their doctorate degree. He or she may be granted tenure as a faculty member in accordance with the rules current at the university upon his or her appointment. As a state regulatory official, the duties of the State Chemist are service in nature. However, as time permits, the State Chemist may teach or direct research as part of his or her professional duties, and may serve in other administrative positions as deemed desirable with the consent and approval of the president of the university and the board of trustees. He or she shall receive appropriate reimbursement for such services.

(d) **Responsibility:** — The State Chemist shall be responsible to and shall report to the president of the university or a designee of the president.

(e) **Duties:** — The State Chemist shall:

1. Serve as the chief executive officer and director of the State Chemical Laboratory.

2. Recommend the appointment, discharge, annual salaries, duties, and titles of administrative, technical and support personnel and staff of the laboratory to assist him or her in carrying out its authorized functions.

3. Prepare and submit budget requests for the laboratory to the appropriate agency, subject to approval by the president of the university and the board of trustees. The State Chemist shall present such requests before the Legislative Budget Office and legislative committees. He or she shall prepare an annual budget for operation of the laboratory from appropriated or special funds or other income available, and shall make monthly, quarterly and other reports of such income and expenditures to the appropriate agencies as required by law.

4. Maintain an inventory of laboratory equipment and report it appropriately to the proper agencies as required by law.

5. Prepare annual or biennial reports and special reports as needed of laboratory activities, programs and recommendations. Such reports shall be submitted to governmental heads and agencies as required by statutes, to the president of the university, the Board of Trustees of State Institutions of Higher Learning, and to the chief executive officer of each agency with which it cooperates.

6. Serve on such state or national agencies, commissions, boards, organizations or committees as required by law.

7. Conduct other business necessary and desirable for proper discharge of his or her responsibilities to the state or as may be stipulated here or elsewhere in the laws of Mississippi.

SOURCES: Codes, 1942, § 6699-104; Laws, 1970, ch. 259, § 4; Laws, 1984, ch. 488, § 241; Laws, 2010, ch. 399, § 1, eff from and after July 1, 2010.

Cross References — State Chemist as member of Hazardous Waste Technical Siting Committee, see § 17-18-11.

Joint Legislative Budget Committee and Legislative Budget Office generally, see §§ 27-103-101 et seq.

Powers and duties of board of trustees of state institutions of higher learning, see § 37-101-15.

Authority of state chemist with respect to registration and regulation of commercial fertilizers, see § 75-47-7.

Duty to administer and enforce certain provisions pertaining to gasoline and petroleum products, see § 75-55-3.

Duty to administer and enforce certain provisions pertaining to antifreeze and coolants, see § 75-56-5.

§ 57-21-9. Purposes.

The laboratory is established for the following purposes:

(a) To provide analytical chemical and bacteriological services for regulatory control, in cooperation with the Mississippi Department of Agriculture and Commerce, of the quality of feeds, oil-seed meals, fertilizers and economic poisons offered for sale in Mississippi. The State Chemist shall also share responsibility for labeling and standards of such goods with these agencies.

(b) To conduct chemical, bacteriological and physical tests of foods sold in the state, regulating the quality and labeling of such foods.

(c) To conduct chemical and physical tests on petroleum products offered for sale in the state.

(d) To provide chemically oriented consultation, problem-solving services and supporting analytical chemistry for other state organizations and agencies such as the Mississippi Department of Wildlife, Fisheries and Parks, the Mississippi Department of Environmental Quality, the State Geologist, the Board of Health, the Mississippi Development Authority, the University Research Center, the Veterinary Diagnostic Laboratory, the Highway Patrol, the Mississippi Crime Laboratory, the Mississippi Department of Agriculture and Commerce, the Cooperative Extension Service and the Agricultural and Forestry Experimental Station as funds and resources permit.

(e) To provide chemical consultation, toxicological analyses and scientific services for the solution of problems of individual citizens and firms of the state who are engaged in agricultural or industrial endeavors furthering the economic growth or development of Mississippi.

(f) To conduct research and development programs associated with the discharge of these responsibilities.

(g) To carry out any program or duty which may be authorized or delegated to it by future legislation.

SOURCES: Codes, 1942, § 6699-105; Laws, 1970, ch. 259, § 5; Laws, 1972, ch. 369, § 13; Laws, 1986, ch. 395, § 14; Laws, 1986, ch. 459, § 34; Laws, 1988, ch. 518, § 59; Laws, 1991, ch. 530, § 8; Laws, 2010, ch. 399, § 2, eff from and after July 1, 2010.

Editor's Note — Section 57-1-2 provides that "Department of Economic Development" shall mean the "Department of Economic and Community Development."

Cross References — Agricultural and Forestry Experimental Station, see § 37-113-17.

Agricultural Extension Services, see § 37-113-19.
University Research Center, see §§ 37-141-1 et seq.
Board of Health, see §§ 41-3-1 et seq.
Crime Laboratory, see § 45-1-17.
Highway Safety Patrol, see §§ 45-3-1 et seq.
Bureau of Pollution Control, see § 49-2-7.
Department of Wildlife, Fisheries and Parks, see §§ 49-4-1 et seq.
Mississippi Development Authority generally, see §§ 57-1-1 et seq.
Laboratory divisions, see § 57-21-11.
Division of Plant Industry, Mississippi Department of Agriculture and Commerce, see §§ 69-25-1 et seq.

§ 57-21-11. Organization.

The laboratory shall be organized as necessary to properly conduct the program responsibilities and purposes outlined generally in Section 57-21-9 and specifically stated in various state laws. A minimum of four (4) divisions as described below is authorized; extra major divisions needed to organize the laboratory work may be established by the State Chemist.

(a) Chemical Regulatory Division — This division shall carry out regulatory control programs in food, animal feeds, fertilizers, economic poisons, paints and varnishes, and similar programs legally authorized.

(b) Petroleum Products Division — This division shall conduct testing on petroleum and related products. Any person desiring testing of petroleum and related products shall pay to the State Chemist the actual cost of such testing.

(c) Industrial and Agricultural Services Division — This division shall provide applied scientific and engineering consultation to industries and individuals residing in or doing business in the state. Such services might include, among other things, chemical or physical analyses, nondestructive or destructive physical testing, bacteriological examinations and tests, on-site examinations of problems, sampling and limited quality control analyses, research, or other activities related to the improvement of processes, products, or raw materials. Such analyses or examinations will be directed towards solutions of problems of state industries, farmers, or citizens. The laboratory may charge for its services at established prices or may negotiate with the client for a service, consultation, or research contract at terms agreeable to the client and the State Chemist.

The guiding principle in such services shall be that they contribute to the economic growth and development of Mississippi or to the welfare of its citizens, and that major projects shall be self-supporting but nonprofit.

This division may perform such services using its own resources, or it may arrange for additional technical aid, consultation by other university faculty members, and use of facilities, services, or equipment of other university departments on a reimbursement basis. Any such arrangement shall always be established with the approval of the university administration.

Agricultural analyses for individual citizens may be charged on a cost basis. Fees for services shall be established by regulations by the State Chemist.

Services may be provided to other state agencies on an equivalent-cost exchange basis. The agency shall be invoiced for the cost of services as negotiated between the laboratory and the agency. Any special equipment required to conduct such services shall be a part of the assessed charge.

All such services of this division may be made available to any state agency, firm, or individual only as far as personnel, funds, and equipment permit. The division reserves the right to refuse any services which interfere with other functions of the laboratory or which may generate a conflict of interest.

(d) Research Division — This division shall conduct self-supported, grant, or contract research. This research is directed toward problem solving, having immediate or potential influence on the economic growth and promotion of agriculture or industry in Mississippi, or improvement of the laboratory's analytical capabilities in support of its current or anticipated future regulatory functions. The division is authorized to apply for, negotiate for payment, and conduct research on grants or contracts from federal and state agencies, industrial firms, and individuals or groups of individuals.

SOURCES: Codes, 1942, § 6699-106; Laws, 1970, ch. 259, § 6; Laws, 1986, ch. 395, § 15; Laws, 2010, ch. 399, § 3, eff from and after July 1, 2010.

Cross References — Funding for laboratory divisions, see § 57-21-15.

§ 57-21-13. Personnel.

Administrative, technical, and support personnel of all divisions of the laboratory shall be employees of the Mississippi State Chemical Laboratory. However, all employees will have rights, privileges, and responsibilities pertaining thereto, including all fringe benefits available to the general university staff. Recommendations for appointment, discharge, salaries, duties, and position titles shall be made by the State Chemist to the president of the university, whose approval shall be sufficient for all nonteaching posts. Laboratory members recommended for appointment to joint laboratory-teaching positions shall be approved in a manner customary with other university faculty or staff appointments.

SOURCES: Codes, 1942, § 6699-107; Laws, 1970, ch. 259, § 7; Laws, 1980, ch. 561, § 22; Laws, 1986, ch. 395, § 16; Laws, 2010, ch. 399, § 4, eff from and after July 1, 2010.

§ 57-21-15. Funding.

(1) Chemical Regulatory Division — Funds for the operation and support of this laboratory division shall be appropriated from the General Fund by the Legislature.

(2) Petroleum Products Division — This division shall be supported by an appropriation from the General Fund by the Legislature.

(3) Industrial and Agricultural Services Division — This division shall be supported by funds appropriated by the Legislature, and by payments from negotiated contracts or service fees. All income from fees and contracts shall be deposited in a restricted fund at the university, from which payment of costs shall be made for operation of the division on such contracts or services. All projects shall be nearly or wholly self-supporting, including the cost of special equipment required to conduct such services. Annual financial reports of this restricted fund and division projects shall be made separately to the Legislative Budget Office and the State Fiscal Management Board. Any excess money in the fund, as determined by joint audit by the State Fiscal Management Board, university on intervals of four (4) years, shall be returned to the General Fund of the state.

(4) Research Division — This division shall be funded by appropriations from the Legislature and by research grants or contracts from federal or state

agencies, industries or individuals. Each research grant or contract shall be self-supporting, including payment of overhead costs to the university. Annual accounting of all money received and disbursed shall be made to the contractee or grantee and to the Legislative Budget Office and the State Fiscal Management Board.

SOURCES: Codes, 1942, § 6699-108; Laws, 1970, ch. 259, § 8; Laws, 1980, ch. 561, § 23; Laws, 1984, ch. 488, § 242; Laws, 1986, ch. 395, § 17, eff from and after July 1, 1986.

Editor's Note — Section 27-104-1 provides that the term "Fiscal Management Board" shall mean the "Department of Finance and Administration".

Cross References — Joint Legislative Budget Committee and Legislative Budget Office generally, see §§ 27-103-101 et seq.

State Department of Finance and Administration, see §§ 27-104-1 et seq.

CHAPTER 23

Pharmaceutical Product Development and Utilization

Sec.	
57-23-1.	Short title.
57-23-3.	Legislative findings and declarations.
57-23-5.	Establishment of research institute.
57-23-7.	Provision of equipment, personnel, etc., for institute.
57-23-9.	Functions of institute.
57-23-11.	Acceptance of contributions, donations, gifts and grants by institute.
57-23-13.	Cooperation by institute with other state agencies.
57-23-15.	Conduct of research on contractual basis for industries, governmental agencies, etc.

§ 57-23-1. Short title.

This chapter may be cited as the "Pharmaceutical Product Development and Utilization Law of 1964."

SOURCES: Codes, 1942, § 6708-31; Laws, 1964, ch. 438, § 1, eff from and after passage (approved June 4, 1964).

§ 57-23-3. Legislative findings and declarations.

The Legislature hereby finds and declares:

(a) That the economic progress of Mississippi depends in large measure upon the development and wise use of the natural resources of the state;

(b) That the animal, vegetable and mineral resources in the state offer a tremendous potential for development for the industrial pharmaceutical markets;

(c) That these resources when properly oriented and researched and developed can contribute substantially to the total economic development of Mississippi;

(d) That there is a tremendous need for additional knowledge of natural drug products, the uses for which such products may be employed in the pharmaceutical industry for the benefit of public health, and the means of converting them to such uses; and

(e) That this chapter is specifically designed to establish a program for the discovery and dissemination of knowledge concerning natural drug products in the state and discovering product improvements, outlining processing and manufacturing opportunities and conducting research on distribution and sales potential.

SOURCES: Codes, 1942, § 6708-32; Laws, 1964, ch. 438, § 2, eff from and after passage (approved June 4, 1964).

§ 57-23-5. Establishment of research institute.

The board of trustees of state institutions of higher learning is hereby authorized and directed to establish a research institute of pharmaceutical sciences at the University of Mississippi under the direction of the chancellor and such other administrative authorities within the university as said board of trustees may determine.

SOURCES: Codes, 1942, § 6708-33; Laws, 1964, ch. 438, § 3, eff from and after passage (approved June 4, 1964).

Cross References — Powers and duties of board of trustees of state institutions of higher learning, see § 37-101-15.

University of Mississippi generally, see §§ 37-115-1 et seq.

§ 57-23-7. Provision of equipment, personnel, etc., for institute.

The board of trustees of state institutions of higher learning shall provide for such equipment, personnel, supplies and services as it shall determine to be necessary for the proper operation and maintenance of said institute, having due regard for the contributory facilities and programs already existing at the University of Mississippi.

SOURCES: Codes, 1942, § 6708-34; Laws, 1964, ch. 438, § 4, eff from and after passage (approved June 4, 1964).

Cross References — Powers and duties of board of trustees of state institutions of higher learning, see § 37-101-15.

University of Mississippi generally, see §§ 37-115-1 et seq.

§ 57-23-9. Functions of institute.

It shall be the function of the institute to conduct a program of research in the properties and uses of natural drug products and the methods of developing these products to useful purposes in the pharmaceutical industry, and to disseminate its findings to the public and to all individuals and agencies for whom such knowledge will be helpful. Data from basic research studies shall be released to applied research agencies for completion of the applied studies. Efforts shall be made to coordinate basic and applied work.

SOURCES: Codes, 1942, § 6708-35; Laws, 1964, ch. 438, § 5, eff from and after passage (approved June 4, 1964).

§ 57-23-11. Acceptance of contributions, donations, gifts and grants by institute.

In addition to appropriations made by the Mississippi Legislature for the operation and support of the institute, the board of trustees of state institutions of higher learning is authorized and empowered to receive contributions, donations, gifts, and grants of money and/or property, equipment, materials or manpower from persons, foundations, trust funds, corporations, organizations, and other sources, to be expended by said board in carrying out the objectives of this chapter.

SOURCES: Codes, 1942, § 6708-36; Laws, 1964, ch. 438, § 6, eff from and after passage (approved June 4, 1964).

Cross References — Board of Trustees of State Institutions of Higher learning, see §§ 37-101-1 et seq.

§ 57-23-13. Cooperation by institute with other state agencies.

The institute personnel shall cooperate fully with the various departments of the state government, with the colleges and universities of the state, with the University Research Center, the Mississippi Department of Economic Development, and other research and development agencies in an effort to fully effectuate the purposes of this chapter. All state agencies and departments are hereby authorized and directed to give the institute and its personnel their full cooperation in every possible manner.

SOURCES: Codes, 1942, § 6708-37; Laws, 1964, ch. 438, § 7; Laws, 1988, ch. 518, § 60, eff from and after July 1, 1988.

Editor's Note — Section 57-1-2 provides that "Department of Economic Development" shall mean the "Department of Economic and Community Development."

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — University Research Center, see §§ 37-141-1 et seq.

§ 57-23-15. Conduct of research on contractual basis for industries, governmental agencies, etc.

The institute personnel may at their discretion, and subject to approval of the proper administrative authorities at the University of Mississippi, do research on a contract on project basis for industries, governmental agencies, public or private organizations or corporations, or any others, at a price and on a basis to be determined by the aforesaid personnel. The proceeds derived from such research project shall be used, in addition to other funds provided therefor, for the operation and support of the institute.

SOURCES: Codes, 1942, § 6708-38; Laws, 1964, ch. 438, § 8, eff from and after passage (approved June 4, 1964).

Cross References — University of Mississippi generally, see §§ 37-115-1 et seq.

CHAPTER 25

Southern States Energy Compact

Sec.
57-25-1. Adoption and terms of compact.
57-25-3 and 57-25-5. Repealed.
57-25-7. Compensation of members of board; powers of Governor.
57-25-9. Submission of budgets of estimated expenditures.
57-25-11. Supplementary agreements involving expenditure of funds.
57-25-13. Cooperation by state officers and agencies with board.

§ 57-25-1. Adoption and terms of compact.

The Southern States Energy Compact is hereby enacted into law and entered into by this state with any and all states legally joining therein in accordance with its terms, in the form substantially as follows:

Article I. Policy and Purpose

The party states recognize that the proper employment and conservation of energy and employment of energy-related facilities, materials and products, within the context of a responsible regard for the environment, can assist substantially in the industrialization of the south and the development of a balanced economy for the region. They also recognize that optimum benefit from an acquisition of energy resources and facilities requires systematic encouragement, guidance and assistance from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis; it is the purpose of this compact to provide the instruments and framework for such a cooperative effort to improve the economy of the South and contribute to the individual and community well-being of the region's people.

Article II. The Board

(a) There is hereby created an agency of the party states to be known as the "Southern States Energy Board" (hereinafter called the board). The board shall be composed of three (3) members from each party state. One (1) member shall be appointed by the Governor, one (1) member shall be appointed by the lieutenant governor from the state senate, and one (1) member shall be appointed by the speaker of the house from the house of representatives. Each member shall be designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Such appointees shall serve at the will and pleasure of the person making the appointment. Any member of the legislature appointed under the provisions of this article shall not serve beyond the expiration of his term of office. Any member of the board may provide for the discharge of his duties and the performance of his functions thereon (either for the duration of his membership or for any lesser period of time) by a deputy or assistant, if the laws of his state make specific provision therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

(b) Each party state shall be entitled to one (1) vote on the board, to be determined by majority vote of each member or member's representative from the party state present and voting on any question. No action of the board shall be binding unless taken at a meeting at which a majority of all party states are represented, and unless a majority of the total number of votes on the board is cast in favor thereof.

(c) The board shall have a seal.

(d) The board shall elect annually, from among its members, a chairman, a vice chairman and a treasurer. The board shall appoint an executive director who shall serve at its pleasure and who shall also act as secretary, and who, together with the treasurer, shall be bonded in such amounts as the board may require.

(e) The executive director, with the approval of the board, shall appoint and remove or discharge such personnel as may be necessary for the performance of the board's functions irrespective of the civil service, personnel or other merit system laws of any of the party states.

(f) The board may establish and maintain, independently or in conjunction with any one or more of the party states, a suitable retirement system for its full-time employees. Employees of the board shall be eligible for social security coverage in respect of old age and survivors insurance provided that the board takes such steps as may be necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(g) The board may borrow, accept or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation.

(h) The board may accept for any of its purposes and functions under this compact any and all donations and grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same.

(i) The board may establish and maintain such facilities as may be necessary for the transacting of its business. The board may acquire, hold and convey real and personal property and any interest therein.

(j) The board shall adopt bylaws, rules and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules and regulations. The board shall publish its bylaws, rules and regulations in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(k) The board annually shall make to the Governor of each party state, a report covering the activities of the board for the preceding year, and embodying such recommendations as may have been adopted by the board, which report shall be transmitted to the legislature of said state. The board may issue such additional reports as it may deem desirable.

Article III. Finances

(a) The board shall submit to the executive head or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

(b) Each of the board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. One-half (½) of the total amount of each budget of estimated expenditures shall be apportioned among the party states in equal shares; one-fourth (¼) of each such budget shall be apportioned among the party states in accordance with the ratio of their populations to the total population of the entire group of party states based on the last decennial federal census; and one-fourth (¼) of each such budget shall be apportioned among the party states on the basis of the relative average per capita income of the inhabitants in each of the party states based on the latest computations published by the federal census-taking agency. Subject to appropriation by their respective legislatures, the board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the board.

(c) The board may meet any of its obligations in whole or in part with funds available to it under article II(h) of this compact, provided that the board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner. Except where the board makes use of funds available to it under article II(h) hereof, the board shall not incur any obligation prior to the allotment of funds by the party jurisdictions adequate to meet the same.

(d) The board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the board shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the board shall be audited yearly by a qualified public accountant and the report of the audit shall be included in and become part of the annual report of the board.

(e) The accounts of the board shall be open at any reasonable time for inspection.

Article IV. Advisory Committees

The board may establish such advisory and technical committees as it may deem necessary, membership on which to include, but not be limited to, private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, state and federal governments, and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

Article V. Powers

The board shall have power to:

(a) Ascertain and analyze on a continuing basis the position of the south with respect to energy, energy-related industries, and environmental concerns.

(b) Encourage the development, conservation and responsible use of energy and energy-related facilities, installations and products as part of a balanced economy and healthy environment.

(c) Collect, correlate and disseminate information relating to civilian uses of energy and energy-related materials and products.

(d) Conduct, or cooperate in conducting, programs of training for state and local personnel engaged in any aspect of:

(1) Energy, environment and application of energy, environmental and related concerns to industry, medicine or education or the promotion or regulation thereof.

(2) The formulation or administration of measures designed to promote safety in any matter related to the development, use or disposal of energy and energy-related materials, products, installations or wastes.

(e) Organize and conduct, or assist and cooperate in organizing and conducting, demonstrations of energy product, material or equipment use and disposal and of proper techniques or processes for the application of energy resources to the civilian economy or general welfare.

(f) Undertake such nonregulatory functions with respect to sources of radiation as may promote the economic development and general welfare of the region.

(g) Study industrial, health, safety and other standards, laws, codes, rules, regulations and administrative practices in or related to energy and environmental fields.

(h) Recommend such changes in, or amendments or additions to the laws, codes, rules, regulations, administrative procedures and practices or ordinances of the party states in any of the fields of its interest and competence as in its judgment may be appropriate. Any such recommendation shall be made through the appropriate state agency with due consideration of the desirability of uniformity, but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions.

(i) Prepare, publish and distribute (with or without charge) such reports, bulletins, newsletters or other material as it deems appropriate.

(j) Cooperate with the United States Department of Energy, or any agency successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interests.

(k) Act as licensee of the United States government or any party state with respect to the conduct of any research activity requiring such license and operate such research facility or undertake any program pursuant thereto.

(*l*) Ascertain from time to time such methods, practices, circumstances and conditions as may bring about the prevention and control of energy and environmental incidents in the area comprising the party states, to coordinate the nuclear, environmental and other energy-related incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with energy and environmental incidents. The board may formulate and, in accordance with need from time to time, revise a regional plan or regional plans for coping with energy and environmental incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact.

Article VI. Supplementary Agreements

(a) To the extent that the board has not undertaken an activity or project which would be within its power under the provisions of article V of this compact, any two (2) or more of the party states (acting by their duly constituted administrative officials) may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify its purpose or purposes; its duration and the procedure for termination thereof or withdrawal therefrom; the method of financing and allocating the costs of the activity or project; and such other matters as may be necessary or appropriate. No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the board. The board shall give such approval, unless it finds that the supplementary agreement or the activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the board.

(b) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the board may administer or otherwise assist in the operation of any supplementary agreement.

(c) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

Article VII. Other Laws and Relationships

Nothing in this compact shall be construed to:

(a) Permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order or ordinance of a party state or subdivision thereof now or hereafter made, enacted or in force.

(b) Limit, diminish or otherwise impair jurisdiction exercised by the United States Department of Energy, any agency successor thereto, or any other federal department, agency or officer pursuant to and in conformity with any valid and operative act of Congress.

(c) Alter the relations between and respective internal responsibilities of the government of a party state and its subdivisions.

(d) Permit or authorize the board to exercise any regulatory authority or to own or operate any nuclear reactor for the generation of electric energy; nor shall the board own or operate any facility or installation for industrial or commercial purposes.

Article VIII. Eligible Parties, Entry into Force and Withdrawal

(a) Any or all of the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia, the Commonwealth of Puerto Rico, and the United States Virgin Islands shall be eligible to become party to this compact.

(b) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law; provided that it shall not become initially effective until enacted into law by seven (7) states.

(c) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall become effective until the Governor of the withdrawing state shall have sent formal notice in writing to the Governor of each other party state informing said governors of the action of the legislature in repealing the compact and declaring an intention to withdraw.

Article IX. Severability and Construction

The provisions of this compact and of any supplementary agreement entered into hereunder shall be severable and if any phrase, clause, sentence or provision of this compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant hereto shall be liberally construed to effectuate the purposes thereof.

SOURCES: Codes, 1942, § 7096.5-01; Laws, 1962, ch. 509, § 1; Laws, 1981, ch. 311, § 1; eff as provided in § 7 of Laws, 1981, ch. 311.

Editor's Note — Laws, 1981, ch. 311, § 7 provides as follows:

"SECTION 7. The provisions of this act shall become effective at such time as nine (9) of the party states to the Southern Interstate Nuclear Compact approve substantially the same changes in the compact as are provided for in this act and the Congress of the United States consents to the compact, substantially as amended by this act."

Cross References — Radiation protection program, see §§ 45-14-1 et seq.

Mississippi Energy Research Center, see § 57-55-15.

Crime of nuclear sabotage, see § 97-25-57.

Comparable Laws from other States — Alabama Code, §§ 9-18A-1 through 9-18A-4.

Arkansas Code Annotated, §§ 15-10-401 through 15-10-404.

Georgia Code Annotated, §§ 12-10-1 through 12-10-8.

Kentucky Revised Statutes, §§ 152.200 through 152.250.

Louisiana Revised Statutes, §§ 51:1001 et seq.

Michie's Annotated Code of Maryland, Art. 41, §§ 16-101, et seq.

Tennessee Code Annotated, §§ 68-202-601 through 68-202-604.

Texas Government Code, §§ 761.001 et seq.

Virginia Code Annotated, §§ 2.2-5600 through 2.2-5603.

West Virginia Code Annotated, §§ 29-1E-1 et seq.

RESEARCH REFERENCES

ALR. State regulation of nuclear power plants. 82 A.L.R.3d 751.

Am Jur. 6 Am. Jur. 2d, Atomic Energy §§ 1 et seq.

§§ 57-25-3 and 57-25-5. Repealed.

Repealed by Laws, 1981, ch. 311, § 6, eff as provided in § 7 of Laws, 1981, ch. 311.

[Codes, 1942, § 7096.5-02; Laws, 1962, ch. 509, § 2]

[Codes, 1942, § 7096.5-03; Laws, 1962, ch. 509, § 3]

Editor's Note — Former § 57-25-3 created an advisory committee on nuclear energy.

Former § 57-25-5 provided that one member of advisory committee on nuclear energy would be the vice-chairman of the committee and be the state's representative to the Southern Interstate Nuclear board.

§ 57-25-7. Compensation of members of board; powers of Governor.

The three (3) members of the board appointed or designated to represent the State of Mississippi shall receive a per diem compensation as provided in Section 25-3-69 for each day or fraction thereof occupied with the discharge of official duties, and shall be entitled to reimbursement for all actual and necessary expenses incurred in the discharge of their duties, including mileage, as provided in Section 25-3-41. The Governor is authorized and empowered to enter into agreements and to perform other necessary acts and deeds incident to the purposes of this compact and in authorizing this state to accept powers and responsibilities of the appropriate agency or agencies of the federal government related to energy.

SOURCES: Codes, 1942, § 7096.5-04; Laws, 1962, ch. 509, § 4; Laws, 1981, ch. 311, § 2, eff as provided in § 7 of Laws, 1981, ch. 311.

Editor's Note — Laws of 1981, ch. 311, § 7 provides as follows:

"SECTION 7. The provisions of this act shall become effective at such time as nine (9) of the party states to the Southern Interstate Nuclear Compact approve substantially the same changes in the compact as are provided for in this act and the Congress of the United States consents to the compact, substantially as amended by this act."

Cross References — Powers and duties of Governor generally, see § 7-1-5.

§ 57-25-9. Submission of budgets of estimated expenditures.

Pursuant to article III(a) of Section 57-25-1, the southern states energy board shall submit its budgets of estimated expenditures to the legislative budget office for presentation to the Legislature.

SOURCES: Codes, 1942, § 7096.5-05; Laws, 1962, ch. 509, § 5; Laws, 1981, ch. 311, § 3; Laws, 1984, ch. 488, § 243, eff from and after July 1, 1984.

Cross References — Joint Legislative Budget Committee and Legislative Budget Office generally, see §§ 27-103-101 et seq.

§ 57-25-11. Supplementary agreements involving expenditure of funds.

Any supplementary agreement entered into pursuant to article VI of Section 57-25-1 and requiring the expenditure of funds or the assumption of an obligation to expend funds in addition to those already appropriated shall not become effective as to this state prior to the making of an appropriation by the Legislature therefor.

SOURCES: Codes, 1942, § 7096.5-06; Laws, 1962, ch. 509, § 6; Laws, 1981, ch. 311, § 4, eff as provided in § 7 of Laws, 1981, ch. 311.

Editor's Note — Laws of 1981, ch. 311, § 7 provides as follows:
"SECTION 7. The provisions of this act shall become effective at such time as nine (9) of the party states to the Southern Interstate Nuclear Compact approve substantially the same changes in the compact as are provided for in this act and the Congress of the United States consents to the compact, substantially as amended by this act."

§ 57-25-13. Cooperation by state officers and agencies with board.

The departments, agencies and officers of this state and its subdivisions are hereby authorized to cooperate with the Southern States Energy Board in the furtherance of any of its activities pursuant to the compact.

SOURCES: Codes, 1942, § 7096.5-07; Laws, 1962, ch. 509, § 7; Laws, 1981, ch. 311, § 5, eff as provided in § 7 of Laws, 1981, ch. 311.

Editor's Note — Laws of 1981, ch. 311, § 7 provides as follows:
"SECTION 7. The provisions of this act shall become effective at such time as nine (9) of the party states to the Southern Interstate Nuclear Compact approve substantially the same changes in the compact as are provided for in this act and the Congress of the United States consents to the compact, substantially as amended by this act."

CHAPTER 26

Tourism Project Incentive Program; Theme Parks, Entertainment Centers, Scenic Attractions, etc.

Sec.	
57-26-1.	Definitions.
57-26-3.	Creation of Tourism Project Sales Tax Incentive Fund; incentive payments.
57-26-5.	Development, implementation and administration of incentive program; participation in incentive program; application; issuance of certificate of participation; cost benefit analysis of project required.
57-26-7.	Prohibition against Mississippi Development Authority approving applications submitted after June 30, 2014, for certain projects.

§ 57-26-1. Definitions.

As used in Sections 57-26-1 through 57-26-5, the following terms and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Approved project costs" means actual costs incurred by an approved participant for land acquisition, construction, engineering, design and other costs approved by the Mississippi Development Authority relating to a tourism project; however, for the purposes of a tourism project described in paragraph (d)(iv) of this section, such costs include only those incurred after January 1, 2011, relating to the hotel portion of the project consisting of facilities used for lodging and common areas in that portion of the project. All costs must be verified by an independent third party approved by the MDA. An approved participant shall pay the costs for the third-party verification of costs. Approved project costs may not increase regardless of the actual costs incurred by the project.

(b) "Approved participant" means a person, corporation or other entity issued a certificate by the Mississippi Development Authority under Section 57-26-5.

(c) "MDA" means the Mississippi Development Authority.

(d) "Tourism project" shall include any of the following as may be approved by the MDA:

(i) Theme parks, water parks, entertainment parks or outdoor adventure parks, cultural or historical interpretive educational centers or museums, motor speedways, indoor or outdoor entertainment centers or complexes, convention centers, professional sports facilities, spas, attractions created around a natural phenomenon or scenic landscape and marinas open to the public with a minimum private investment of not less than Ten Million Dollars ($10,000,000.00);

(ii) A hotel with a minimum private investment of Forty Million Dollars ($40,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority, and having a minimum private investment of One Hundred Fifty Thousand Dollars ($150,000.00) per guest room which amount shall be included within the minimum private investment of Forty Million Dollars ($40,000,000.00);

(iii) A public golf course with a minimum private investment of Ten Million Dollars ($10,000,000.00);

(iv) A full service hotel with a minimum private investment of Fifteen Million Dollars ($15,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority, and having a minimum private investment of Two Hundred Thousand Dollars ($200,000.00) per guest room or suite which amount shall be included within the minimum private investment of Fifteen Million Dollars ($15,000,000.00), a minimum of twenty-five (25) guest rooms or suites, and guest amenities such as restaurants, spas and other amenities as determined by the Mississippi Development Authority;

(v) A tourism attraction located within an "entertainment district" as defined in Section 17-29-3 that is open to the public, has seating to accommodate at least forty (40) persons, is open at least five (5) days per week from at least 6:00 p.m. until midnight, serves food and beverages, and provides live entertainment at least three (3) nights per week;

(vi) A cultural retail attraction;

(vii) A tourism attraction located within a historic district where the district is listed in the National Register of Historic Places, where the tourism attraction is open to the public, has seating to accommodate at least forty (40) persons, is open at least five (5) days per week from at least 6:00 p.m. until midnight, serves food and beverages, and provides live entertainment at least three (3) nights per week.

The term "tourism project" does not include any licensed gaming establishment owned, leased or controlled by a business, corporation or entity having a gaming license issued under Section 75-76-1 et seq.; however, the term "tourism project" may include a project described in this paragraph (d) that is owned, leased or controlled by such a business, corporation or entity or in which the business, corporation or entity has a direct or indirect financial interest if the project is in excess of development that the State Gaming Commission requires for the issuance or renewal of a gaming license and is not part of a licensed gaming establishment in which gaming activities are conducted.

The term "tourism project" does not include any facility within the project whose primary business is retail sales or any expansions of existing projects; however, pro shops, souvenir shops, gift shops, concessions and similar retail activities, and cultural retail attractions may be included within the definition of the term "tourism project." In addition, retail activities, regardless of whether the primary business is retail sales, that are part of a resort development may be included within the definition of "tourism project."

(e) "Resort development" means a travel destination development with a minimum private investment of One Hundred Million Dollars

($100,000,000.00) and which consists of (i) a hotel with a minimum of two hundred (200) guest rooms or suites and having a minimum private investment of Two Hundred Thousand Dollars ($200,000.00) per guest room or suite, and (ii) guest amenities such as restaurants, golf courses, spas, fitness facilities, entertainment activities and other amenities as determined by the MDA. Not more than an amount equal to forty percent (40%) of the private investment required by this paragraph may be expended on facilities to house retail activity.

(f) "Cultural retail attraction" means a project which combines destination shopping with cultural or historical interpretive elements specific to Mississippi with a minimum private investment of Fifty Million Dollars ($50,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority and which:

(i) Is located in a qualified resort area as defined in Section 67-1-5;

(ii) Is a part of a master-planned development with a total investment of not less than One Hundred Million Dollars ($100,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority;

(iii) Has a minimum of fifty (50) retail tenants with a minimum of three hundred thousand (300,000) square feet of heated and cooled space; and

(iv) Has a minimum investment of One Million Dollars ($1,000,000.00) in one or more of the following:

1. Art created by Mississippi artists or portraying themes specific to Mississippi;

2. Memorabilia, signage or historical markers which serve to promote the State of Mississippi;

3. Audio/visual equipment used to showcase Mississippi artists;

4. A minimum of one thousand two hundred and fifty (1,250) square feet of heated and cooled space available to the Mississippi Development Authority or its assignee for a period of not less than ten (10) years.

(g) "Retail activity" means businesses whose inventory consists primarily of upscale name brands or their equivalent as determined by the MDA.

(h) "State" means the State of Mississippi.

SOURCES: Laws, 2007, ch. 574, § 1; Laws, 2009, ch. 356, § 1; Laws, 2011, ch. 479, § 1; Laws, 2013, ch. 304, § 1; Laws, 2013, ch. 558, § 2, eff from and after July 1, 2013.

Joint Legislative Committee Note — Section 1 of ch. 304, Laws of 2013, effective from and after July 1, 2013 (approved February 26, 2013), amended this section. Section 2 of ch. 558, Laws of 2013, effective from and after July 1, 2013 (approved April 25, 2013), also amended this section. As set out above, this section reflects the language of Section 2 of ch. 558, Laws of 2013, which contains language that specifically provides that it supersedes § 57-26-1 as amended by ch. 304, Laws of 2013.

Amendment Notes — The first 2013 amendment (ch. 304), added (d)(vi); inserted "and cultural retail attractions" in the first sentence of the last paragraph of (d)(vi); added (f) and redesignated the remaining subsections accordingly.

The second 2013 amendment (ch. 558), added (d)(vii); and made minor stylistic changes.

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

MDA prohibited from approving applications submitted after June 30, 2014, pursuant to § 57-26-5, for projects that include any resort development, see § 57-26-7.

Tourism Project Incentive Program; entertainment districts, see §§ 57-28-1 through 57-28-5.

§ 57-26-3. Creation of Tourism Project Sales Tax Incentive Fund; incentive payments.

(1)(a) There is created in the State Treasury a special fund to be known as the "Tourism Project Sales Tax Incentive Fund," into which shall be deposited such money as provided in Section 27-65-75(16). The monies in the fund shall be used for the purpose of making the incentive payments authorized in this section. The fund shall be administered by the MDA. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on or investment earnings on the amounts in the fund shall be deposited to the credit of the fund. The MDA may use not more than one percent (1%) of interest earned or investment earnings, or both, on amounts in the fund for administration and management of the incentive program authorized under Sections 57-26-1 through 57-26-5.

(b) Subject to the provisions of this section, incentive payments may be made by the MDA to an approved participant that incurs approved project costs to locate a tourism project in the state. The payments to an approved participant shall be for eighty percent (80%) of the amount of sales tax revenue collected from the operation of the tourism project, after making the diversions required in Section 27-65-75(7) and (8). The MDA shall make payments to an approved participant on a semiannual basis with payments being made in the months of January and July. The aggregate amount of incentive payments that an approved participant may receive shall not exceed thirty percent (30%) of the approved project costs incurred by the approved participant for the tourism project. Expansions, enlargements or additional investments made by an approved participant will not increase authorized incentive payments certified by the MDA. The MDA shall make the calculations necessary to make the payments provided for in this section. The MDA shall cease making incentive payments to an approved participant on the occurrence of the earlier of:

(i) The date that an aggregate amount of thirty percent (30%) of the approved project costs incurred by the approved participant for the tourism project has been paid to the approved participant; or

(ii) Fifteen (15) years after the date the tourism project opens for commercial operation.

(2) At such time as incentive payments are no longer required to be made to an approved participant, the MDA shall notify the Department of Revenue and the sales tax revenue collected from the tourism project shall no longer be deposited into the Tourism Project Sales Tax Incentive Fund. Any amounts remaining in the fund that were collected from such project shall be transferred to the State General Fund.

SOURCES: Laws, 2007, ch. 574, § 2; Laws, 2013, ch. 558, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment substituted "Fifteen (15)" for "Ten (10)" in (1)(b)(ii); substituted "Department of Revenue" for "State Tax Commission" in the first sentence of (2).

Cross References — Tourism Project Incentive Program; entertainment districts, see §§ 57-28-1 through 57-28-5.

§ 57-26-5. Development, implementation and administration of incentive program; participation in incentive program; application; issuance of certificate of participation; cost benefit analysis of project required.

(1) The MDA shall develop, implement and administer the incentive program authorized in Sections 57-26-1 through 57-26-5 and shall promulgate rules and regulations necessary for the development, implementation and administration of such program.

(2) A person, corporation or other entity desiring to participate in the incentive program authorized in Sections 57-26-1 through 57-26-5 must submit an application and an application fee in the amount of Five Thousand Dollars ($5,000.00) to the MDA. Such application must contain (a) plans for the proposed tourism project; (b) a detailed description of the proposed tourism project; (c) the method of financing the proposed tourism project and the terms of such financing; (d) an independent study that identifies the number of out-of-state visitors anticipated to visit the project and the ratio of out-of-state visitors to in-state visitors; and (e) any other information required by the MDA. The Executive Director of the MDA shall review the application and determine if it qualifies as a tourism project under this section and under the rules and regulations promulgated pursuant to this section. If the executive director determines the proposed tourism project qualifies as a tourism project under this section and under the rules and regulations promulgated pursuant to this section, he shall issue a certificate to the person, corporation or other entity designating such person, corporation or other entity as an approved participant and authorizing the approved participant to participate in the incentive program provided for in Sections 57-26-1 through 57-26-5. No certificate designating an entity as an approved participant and authorizing the approved participant to participate in the incentive program shall be issued from and after July 1, 2014, for tourism projects that are cultural retail attractions, or from and after July 1, 2016, for other tourism projects.

(3) The MDA shall cause a cost benefit analysis of the tourism project to be performed by a state institution of higher learning, the university research center or some other entity approved by the MDA.

SOURCES: Laws, 2007, ch. 574, § 3; Laws, 2011, ch. 479, § 2; Laws, 2014, ch. 511, § 1, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment added "for tourism projects that are cultural retail attractions, or from and after July 1, 2016, for other tourism projects" at the end of (2).

Cross References — Tourism Project Incentive Program; entertainment districts, see §§ 57-28-1 through 57-28-5.

§ 57-26-7. Prohibition against Mississippi Development Authority approving applications submitted after June 30, 2014, for certain projects.

The MDA shall not approve any application submitted after June 30, 2014, pursuant to Section 57-26-5 for a project that includes any resort development.

SOURCES: Laws, 2009, ch. 356, § 2, eff from and after passage (approved Mar. 17, 2009.)

CHAPTER 27

Regional Tourist Promotion Councils

Sec.

57-27-1. Definitions.
57-27-3. Organization of nonprofit corporation; application for recognition as regional council; inclusion of county in adjacent natural region.
57-27-5. Designation and certification of nonprofit corporation as regional council; revocation or suspension of designation.
57-27-7. State matching grants; contents of application; limitation on amount.
57-27-9. Acceptance of gifts, grants or donations by council; review and allocation of state matching funds.
57-27-11. Purposes for which matched funds may be expended.
57-27-13. Grants to be made on matching basis; notice of approval of application and payment of grant; investigations and audits.
57-27-15. Designation of state agency to administer chapter.

§ 57-27-1. Definitions.

As used in this chapter, the following words and phrases shall have the following meanings, unless the context hereof clearly indicates otherwise:

(a) "Regional tourist promotion council" shall mean a corporation organized pursuant to the provisions of the Mississippi Nonprofit Corporation Law established for the purposes authorized in this chapter, and which is recognized by the Mississippi Board of Economic Development as qualifying under the provisions of this chapter.

(b) "Board" shall mean the Mississippi Board of Economic Development or any successor agency that may be designated by law to succeed to the duties of the Mississippi Board of Economic Development with respect to the promotion of tourist travel and vacation business in Mississippi.

(c) "Natural promotion regions" shall consist of the following area tourist councils:

(i) Area Tourist Council One: DeSoto, Tate, Panola, Yalobusha, Grenada, Calhoun, Lafayette, Marshall, Benton, Union, Pontotoc, Tippah, Alcorn, Tishomingo, Prentiss, Lee and Itawamba.

(ii) Area Tourist Council Two: Tunica, Coahoma, Quitman, Bolivar, Tallahatchie, Sunflower, Leflore, Carroll, Washington, Humphreys, Holmes, Issaquena and Sharkey.

(iii) Area Tourist Council Three: Chichasaw, Monroe, Montgomery, Webster, Clay, Choctaw, Oktibbeha, Lowndes, Attala, Winston, Noxubee, Leake, Neshoba, Kemper, Scott, Newton, Lauderdale, Smith, Jasper and Clarke.

(iv) Area Tourist Council Four: Warren, Yazoo, Madison, Hinds, Rankin, Claiborne, Copiah, Simpson, Jefferson, Adams, Franklin, Lincoln, Lawrence, Wilkinson, Amite, Pike and Walthall.

(v) Area Tourist Council Five: Jefferson Davis, Covington, Jones, Wayne, Marion, Lamar, Forrest, Perry, Greene, Pearl River, Stone, George, Hancock, Harrison and Jackson.

Upon the approval of the Mississippi Board of Economic Development, the area tourist councils established by subsection (c) may reorganize in order to allow a county to join that council with which it feels most closely connected, taking into consideration such factors as common interests and compatibility with the member counties.

SOURCES: Laws, 1973, ch. 390, § 1; Laws, 1974, ch. 307; Laws, 1979, ch. 438, § 15, eff from and after February 1, 1980.

Editor's Note — Section 57-1-2 provides that the term "Department of Economic Development" shall mean the Department of Economic and Community Development".

Section 57-1-2 provides that the term "Board of Economic Development" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Promotion of trade, conventions and tourism generally, see §§ 17-3-1 et seq.

Travel and tourism in connection with publication of a vacation guide, see §§ 57-29-1 et seq.

Hospitality stations on highways, see §§ 65-31-1 et seq.

Nonprofit, nonshare corporations generally, see §§ 79-11-101 et seq.

§ 57-27-3. Organization of nonprofit corporation; application for recognition as regional council; inclusion of county in adjacent natural region.

Any group of interested citizens and residents of counties comprising a natural promotion region of this state, and who are residents of counties representing not less than fifty percent (50%) of the total population of the region, but in no event less than fifteen (15) individuals, who shall form a nonprofit corporation pursuant to the provisions of the Mississippi Nonprofit Corporation Law for the purpose of promoting tourist travel and vacation business in the counties comprising the natural promotion region, and whose charter, bylaws and purpose are in compliance with the rules and regulations promulgated by the board pursuant to the provisions of this chapter, may apply for recognition by the board as a regional tourist promotion council under this chapter. Provided, that upon approval of the board, a county in one (1) natural promotion region of the state may be included within the area comprising a different and adjacent natural promotion region if, and when, experience establishes that the county tourist values are more closely identified with the other region.

SOURCES: Laws, 1973, ch. 390, § 2; Laws, 1979, ch. 438, § 16, eff from and after February 1, 1980.

Cross References — Hospitality stations on highways, see §§ 65-31-1 et seq.

Nonprofit, nonshare corporations generally, see §§ 79-11-101 et seq.

§ 57-27-5. Designation and certification of nonprofit corporation as regional council; revocation or suspension of designation.

The board, upon receipt of a copy of incorporation papers, constitution, bylaws and resolutions, if any, of a nonprofit corporation applying for recognition as a regional tourist promotion council under the provisions of this chapter is hereby authorized to designate such corporation as a regional tourist promotion council whenever the board shall determine:

(1) that the applying agency is established under the Mississippi Nonprofit Corporation Law, and has a constitution and bylaws governing the activities and purposes of said corporation which are in compliance with the rules and regulations of the board;

(2) that the charter, constitution or bylaws of the applying council provide for the selection of a board of directors, and successor members on said boards, of persons who have demonstrated knowledge of and interest in the tourist travel and vacation business in the various counties comprising the council to be served by the agency;

(3) that the applying council has furnished a proposed plan and demonstration of financial resources to establish and promote an active tourist travel and vacation business promotion program within the region.

Upon determining that an applying corporation is eligible for designation as a regional tourist promotion council, the Mississippi Agricultural and Industrial Board shall upon a majority vote of said board designate such council as the participating council for such region and shall certify same to the applying council. The board is hereby authorized to revoke or suspend its designation of any regional tourist promotion council whenever the board shall determine that said council is not complying with the rules and regulations of the board, or has failed to comply with the terms of any grant made to such council pursuant to the provisions of this chapter.

SOURCES: Laws, 1973, ch. 390, § 3, eff from and after July 1, 1973.

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Nonprofit, nonshare corporations generally, see §§ 79-11-101 et seq.

§ 57-27-7. State matching grants; contents of application; limitation on amount.

(1) The travel and tourism department of the board is hereby authorized, upon approval of the board, to make grants, from funds specifically appropriated for such purposes, to regional tourist promotion councils to assist such councils in the financing of promotional and advertising programs and to encourage and stimulate tourist travel and vacation business within the region. Provided, that before any such grant may be made, the regional tourist promotional council shall have made application to the board for such grant, and shall have set forth therein the promotion and advertising program and project, or projects, proposed to be undertaken for the purpose of encouraging and stimulating the tourist travel and vacation business within the region. The application shall further state, under oath or affirmation, the amount of funds held by or committed or subscribed to the regional tourist promotion council for application to the purposes herein described and the amount of the grant for which application is made.

(2) The board, after review of the application, if satisfied that the program of the regional tourist promotion council appears to be in accord with the purposes of this chapter, shall authorize the making of a matching grant to such regional tourist promotion council equal to the funds of the council allocated by it to the program described in the application; provided, however, that the state grant shall not exceed an amount equal to the total amount apportioned to the region as outlined herein.

SOURCES: Laws, 1973, ch. 390, § 4, eff from and after July 1, 1973.

Cross References — Grants from Department of Economic and Community Development for promotion of local tourist attractions, see § 57-1-60.

§ 57-27-9. Acceptance of gifts, grants or donations by council; review and allocation of state matching funds.

The board and/or regional tourist promotion council are hereby authorized to accept gifts, grants or donations from the federal government or agencies thereof, and from private individuals, foundations or concerns to be used in furtherance of the purposes of this chapter.

The board shall annually review the amount of funds appropriated by the Mississippi Legislature, and other funds that may be available therefor, and shall apportion said funds to various participating regional tourist promotion councils for grant purposes on the following basis: Twenty percent (20%) shall be apportioned to each of the five (5) congressional districts. If, at the end of a six (6) month period, an area has not applied for the full amount allocated to it, the money shall be reallocated to the other areas during the last six (6) months of the fiscal year for use in compliance with the provisions of this chapter.

SOURCES: Laws, 1973, ch. 390, § 5, eff from and after July 1, 1973.

Cross References — Grants from Department of Economic and Community Development for promotion of local tourist attractions, see § 57-1-60.

§ 57-27-11. Purposes for which matched funds may be expended.

At least twenty-five percent (25%) of the total matching funds of any participating regional tourist promotion council shall be first used in the production, preparation and printing of a regional tourist promotion brochure, and the participating council shall thereafter allocate such funds, as may be designated by the board, for the revision, reproduction and printing of such regional promotion brochure as the board may designate. The balance of matched funds available to each regional tourist promotion council may be used for needed approved tourist promotion, advertising or research programs designated to encourage and stimulate the visitor and vacation business within the region as may have been approved by the board.

No part of the matched funds provided by the participating council, or made available on a matching basis by the board, may be used by a regional tourist promotion council for administrative salaries or expenses, it being the intent hereof that all matched funds shall be used for the purposes for which the application and grant is made.

SOURCES: Laws, 1973, ch. 390, § 6, eff from and after July 1, 1973.

Cross References — Grants from Department of Economic and Community Development for promotion of local tourist attractions, see § 57-1-60.

§ 57-27-13. Grants to be made on matching basis; notice of approval of application and payment of grant; investigations and audits.

All grants under the provisions of this chapter shall be on a matching basis with the applying council furnishing fifty percent (50%) of the funds and the state grants in no event exceeding an amount equal to the funds supplied by the council. Upon approval of each application and the making of a grant by the board in accordance therewith, the board shall give notice to the applying regional tourist promotion council of such approval and grant, and shall direct the regional tourist promotion council to proceed with its promotional program as described in its application, and to use therefor funds allocated by the regional tourist promotion council for such purposes. Upon the furnishing of said evidence to the board that the particular regional tourist promotion council has proceeded in accordance with the terms of the application, the grant allocated to such agency shall be paid to the council by the board.

The board may, from time to time, make such investigations and audits, and require each participating council to furnish such evidence or proof, to determine that all funds granted under the provisions of this chapter are being handled and expended for the purposes as approved by the board in awarding the grant.

SOURCES: Laws, 1973, ch. 390, § 7, eff from and after July 1, 1973.

Cross References — Grants from Department of Economic and Community Development for promotion of local tourist attractions, see § 57-1-60.

§ 57-27-15. Designation of state agency to administer chapter.

The travel and tourism department of the board is hereby designated as the administrative agency of this state to act, under the authority of the board, in administering the provisions of this chapter.

SOURCES: Laws, 1973, ch. 390, § 7, eff from and after July 1, 1973.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Section 57-1-61 provides for the transfer of the staff and resources of the travel and tourism department of the agricultural and industrial board to the department of economic development.

CHAPTER 28

Tourism Project Incentive Program; Entertainment Districts, etc.

Sec.

57-28-1. Definitions.

57-28-3. Creation of Tourism Sales Tax Incentive Fund; incentive payments.

57-28-5. Development, implementation and administration of incentive program; participation in incentive program; application; issuance of certificate of participation.

§ 57-28-1. Definitions.

As used in Sections 57-28-1 through 57-28-5, the following terms and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Approved project costs" means actual costs incurred by an approved participant for land acquisition, construction, engineering, design and other costs approved by the Mississippi Development Authority relating to a tourism project. The term "approved project costs" also may include, if approved by the Mississippi Development Authority, costs described above that are incurred by an approved participant within three (3) months after the date a tourism project opens for commercial operation. All costs must be verified by an independent third party approved by the MDA. An approved participant shall pay the costs for the third party verification of costs.

(b) "Approved participant" means a person, corporation or other entity issued a certificate by the Mississippi Development Authority under Section 57-28-5.

(c) "MDA" means the Mississippi Development Authority.

(d) "Tourism project" shall include an entertainment district described below and may include any of the following as may be approved by the MDA:

(i) A hotel with a minimum private investment of Forty Million Dollars ($40,000,000.00) in land, buildings, architecture, engineering, fixtures, equipment, furnishings, amenities and other related soft costs approved by the Mississippi Development Authority, and having a minimum private investment of One Hundred Fifty Thousand Dollars ($150,000.00) per guest room which amount shall be included within the minimum private investment of Forty Million Dollars ($40,000,000.00);

(ii) A nationally branded, themed entertainment district consisting of restaurants, bars, amphitheaters, live theaters, other entertainment venues and commercial improvements that the MDA determines to be tourism related located within the entertainment district, with a minimum private investment of Seventy-five Million Dollars ($75,000,000.00);

(iii) A nationally branded museum/aquarium with a minimum private investment of Forty Million Dollars ($40,000,000.00); and

(iv) A public golf course with a minimum private investment of Ten Million Dollars ($10,000,000.00).

In addition, in order for a tourism project to be eligible to qualify under the provisions of Sections 57-28-1 through 57-28-5, the tourism project must be located on a project site, and construction of the tourism project must begin no later than June 1, 2017.

(e) "Project site" means a planned mixed use development located on at least four thousand (4,000) acres of land that will consist of commercial, recreational, resort, tourism and residential development, for which the initial phase of development shall begin no later than June 1, 2007.

(f) "State" means the State of Mississippi.

SOURCES: Laws, 2006, 1st Ex Sess, ch. 2, § 4; Laws, 2009, ch. 464, § 3, eff from and after July 1, 2009.

Cross References — Ineligibility for certain forms of assistance and requirement to repay assistance received under this section by entities convicted of hiring illegal immigrants, see § 57-1-373.

§ 57-28-3. Creation of Tourism Sales Tax Incentive Fund; incentive payments.

(1)(a) There is created in the State Treasury a special fund to be known as the "Tourism Sales Tax Incentive Fund," into which shall be deposited such money as provided in Section 27-65-75(20). The monies in the fund shall be used for the purpose of making the incentive payments authorized in this section. The fund shall be administered by the MDA. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned on or investment earnings on the amounts in the fund shall be deposited to the credit of the fund. The MDA may use not more than one percent (1%) of interest earned or investment earnings, or both, on amounts in the fund for administration and management of the incentive program authorized under Sections 57-28-1 through 57-28-5.

(b) Subject to the provisions of this section, incentive payments may be made by the MDA to an approved participant that incurs approved project costs to locate a tourism project in the state. The payments to an approved participant shall be for eighty percent (80%) of the amount of sales tax revenue collected from the operation of the tourism project, after making the diversions required in Section 27-65-75(7) and (8). The MDA shall make payments to an approved participant on a semiannual basis with payments being made in the months of January and July. The aggregate amount of incentive payments that an approved participant may receive shall not exceed thirty percent (30%) of the approved project costs incurred by the approved participant for the tourism project. Expansions, enlargements or additional investments made by an approved participant will not increase authorized incentive payments certified by the MDA. The MDA shall make the calculations necessary to make the payments provided for in this section. The MDA shall cease making incentive payments to an approved participant on the occurrence of the earlier of (i) the date that an aggregate amount of thirty percent (30%) of the approved project costs incurred by the approved participant for the tourism project has been paid to the approved participant, or (ii) ten (10) years after the date the tourism project opens for commercial operation.

(c) If an approved participant does not use or need all of the incentive payments approved by the MDA for a tourism project, then the approved participant may request that the MDA allow the approved participant to transfer or assign part of such incentive payments to another tourism project that, because of the sales tax revenue generated by the tourism project, will produce aggregate incentive payments over the ten-year period of less than thirty percent (30%) of approved project costs incurred by the approved participant for that tourism project. There may be only one (1) such request for transfer or assignment approved by the MDA for a project site.

(d) The total amount of incentive payments authorized for all tourism projects located on a project site shall not exceed One Hundred Fifty Million Dollars ($150,000,000.00) in the aggregate.

(2) At such time as incentive payments are no longer required to be made to an approved participant, the MDA shall notify the State Tax Commission and the sales tax revenue collected from the tourism project shall no longer be deposited into the Tourism Sales Tax Incentive Fund. Any amounts remaining in the fund that were collected from such project shall be transferred to the State General Fund.

SOURCES: Laws, 2006, 1st Ex Sess, ch. 2, § 5, eff from and after passage (approved Sept. 13, 2006).

Editor's Note — Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Cross References — Ineligibility for certain forms of assistance and requirement to repay assistance received under this section by entities convicted of hiring illegal immigrants, see § 57-1-373.

§ 57-28-5. Development, implementation and administration of incentive program; participation in incentive program; application; issuance of certificate of participation.

(1) The MDA shall develop, implement and administer the incentive program authorized in Sections 57-28-1 through 57-28-5 and shall promulgate rules and regulations necessary for the development, implementation and administration of such program.

(2) A person, corporation or other entity desiring to participate in the incentive program authorized in Sections 57-28-1 through 57-28-5 must submit an application to the MDA. Such application must contain (a) plans for the proposed tourism project; (b) a detailed description of the proposed tourism project; (c) the method of financing the proposed tourism project and the terms

of such financing; and (d) any other information required by the MDA. An application must be submitted no later than June 1, 2017. The Executive Director of the MDA shall review the application and determine if it qualifies as a tourism project. If the executive director determines the proposed tourism project qualifies as a tourism project, he shall issue a certificate to the person, corporation or other entity designating such person, corporation or other entity as an approved participant and authorizing the approved participant to participate in the incentive program provided for in Sections 57-28-1 through 57-28-5.

(3) If a person, entity or other person submits an application to the MDA to participate in the incentive program authorized in Sections 57-28-1 through 57-28-5, a gaming license may not be issued by the state for any establishment located in the project site.

SOURCES: Laws, 2006, 1st Ex Sess, ch. 2, § 6; Laws, 2009, ch. 464, § 4, eff from and after July 1, 2009.

Cross References — Ineligibility for certain forms of assistance and requirement torepay assistance received under this section by entities convicted of hiring illegal immigrants, see § 57-1-373.

CHAPTER 29

Travel and Tourism

In General 57-29-1
Tourism Study Commission. [Repealed]
Mississippi Tourism Advisory Board [Repealed] 57-29-25

IN GENERAL

Sec.
57-29-1. Vacation guide; definitions.
57-29-3. Vacation guide; publication.

§ 57-29-1. Vacation guide; definitions.

As used in this section and Section 57-29-3, the following words and phrases shall have the meanings herein ascribed to them unless the context clearly indicates otherwise:

(a) "Vacation Guide" shall mean a publication, compiled, edited and published by the Mississippi Agricultural and Industrial Board, distributed free to the members of the general public and containing no advertising and no photographs or listings of public officials.

(b) "Board" shall mean the Mississippi Agricultural and Industrial Board or any successor agency that may be designated by law to succeed to the duties of the agricultural and industrial board with respect to the promotion of tourist travel and vacation business in Mississippi.

(c) "Publication agency" shall mean any printer, photographer, publication designer, binder, or copywriter or any agency whose technical, production or supply services are a prerequisite to the support of the above functions.

SOURCES: Laws, 1974, ch. 344, § 1, eff from and after passage (approved March 14, 1974).

Editor's Note — Section 57-1-2 provides that the words "Agricultural and Industrial Board" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Promotion of trade, conventions and tourism generally, see §§ 17-3-1 et seq.

Regional tourist promotion councils, see §§ 57-27-1 et seq.

Hospitality stations on highways, see §§ 65-31-1 et seq.

§ 57-29-3. Vacation guide; publication.

The travel and tourism department of the board is hereby authorized, upon approval of the board, to solicit bids from competent publication agencies and to expend such funds as may be appropriated for the purpose of publishing a vacation guide.

SOURCES: Laws, 1974, ch. 344, § 2, eff from and after passage (approved March 14, 1974).

TOURISM STUDY COMMISSION
[REPEALED]

SEC.
57-29-11 through 57-29-21. Repealed.

§§ 57-29-11 through 57-29-21. Repealed.

Repealed by Laws, 1979, ch. 438, § 11, eff from and after February 1, 1980.

[Laws 1975, ch. 498, §§ 1-6]

Editor's Note — Former §§ 57-29-11 through 57-29-21 established the tourism study commission and provided for its membership, organization, powers and duties.

MISSISSIPPI TOURISM ADVISORY BOARD

SEC.
57-29-25. Repealed.

§ 57-29-25. Repealed.

Repealed by its own terms, effective July 1, 2010.

§ 57-29-25. [Laws, 2008, ch. 543, § 1, eff from and after passage (approved May 9, 2008.)]

Editor's Note — Former § 57-29-25 created the Mississippi Tourism Advisory Board, prescribed its duties and provided for its membership.

CHAPTER 30

Family-Oriented Enterprises

Sec.	
57-30-1.	Definitions.
57-30-3.	Creation of Sales Tax Incentive Fund; incentive payments.
57-30-5.	Repealed.

§ 57-30-1. Definitions.

As used in this chapter, the following terms and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Approved participant" means a person, corporation or other entity issued a certificate by the Mississippi Development Authority under Section 57-30-3.

(b) "MDA" means the Mississippi Development Authority.

(c) "Project" means any family-oriented entertainment enterprise such as campgrounds and theme parks, as designated by the Mississippi Development Authority, with an initial capital investment of not less than Five Million Dollars ($5,000,000.00) in federal, local and/or private funds if located in a county in a Tier One area, as designated under Section 57-73-21, or with an initial capital investment of not less than Three Million Dollars ($3,000,000.00) in federal, local and/or private funds if located in a county in a Tier Two area or Tier Three area as designated in Section 57-73-21. Whether a county is in a Tier One area, Tier Two area or Tier Three area shall be determined by the classification of the area at the time the initial investment is made. The term "project" also means any of the following ancillary businesses if located on the project site or within one (1) mile of the project and owned by the owner of the family-oriented entertainment enterprise or owned by an entity legally affiliated with the owner of the family-oriented entertainment enterprise: (i) auditoriums, (ii) dining facilities, (iii) gift shops, and (iv) lodging facilities. However, the capital investment in any such dining facility or lodging facility shall not be included for purposes of meeting the minimum capital investment requirement for a project. The term "project" does not mean any business, corporation or entity having a gaming license issued under Section 75-76-1 et seq., Mississippi Code of 1972, but may include a family-oriented entertainment enterprise owned by such a business, corporation or entity that is in excess of development that the State Gaming Commission requires for the issuance or renewal of a gaming license.

(d) "State" means the State of Mississippi.

SOURCES: Laws, 2000, ch. 616, § 1; Laws, 2002, ch. 549, § 1; reenacted without change, Laws, 2004, ch. 580, § 1, eff from and after passage (approved May 27, 2004.)

Editor's Note — Laws of 2002, ch. 549, § 3, provides:

"SECTION 3. Sections 57-30-1 and 57-30-3 shall stand repealed from and after July 1, 2004."

Laws of 2004, ch. 580, § 4 provides as follows:

"SECTION 4. Section 3, Chapter 549, Laws of 2002, which provides for the repeal of Sections 57-30-1 and 57-30-3 on July 1, 2004, is repealed."

Cross References — Economic Development Reform Act, see §§ 57-73-21 et seq.

§ 57-30-3. Creation of Sales Tax Incentive Fund; incentive payments.

(1)(a) There is created in the State Treasury a special fund to be known as the "Sales Tax Incentive Fund," into which shall be deposited such money as provided in Section 27-65-75(16). The monies in the fund shall be used for the purpose of making the incentive payments authorized in this section. The fund shall be administered by the MDA. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the General Fund, and any interest earned on or investment earnings on the amounts in the fund shall be deposited to the credit of the fund. The MDA may use not more than one percent (1%) of interest earned or investment earnings, or both, on amounts in the fund for administration and management of the incentive program.

(b) Subject to the provisions of this section, incentive payments may be made by the MDA to an approved participant that incurs indebtedness or incurs capital costs, or both, to locate a project in the state. The payments to an approved participant shall be for the amount of sales tax revenue collected on the gross proceeds of sales of a project, after making the diversions required in Section 27-65-75, except the diversion provided for in Section 27-65-75(1). The MDA shall ensure that payments made pursuant to this section are utilized to pay the debt service incurred by the approved participant for the project as approved by the MDA or any project capital cost incurred by the approved participant for the project as approved by the MDA, or both. The MDA shall make payments to an approved participant on a semiannual basis with payments being made in the months of January and July. For the purposes of determining the amount of indebtedness or project capital costs, or both, incurred for any ancillary business, as described in Section 57-30-1(c), which is eligible for incentive payments under this section, the amount of such indebtedness or project capital costs, or both, shall be limited to an amount not greater than the indebtedness or project capital costs, or both, incurred for the primary project. The aggregate amount that an approved participant may receive shall not exceed thirty-five percent (35%) of the portion of the original indebtedness that is funded from private sources or project capital cost that is funded from private sources, or both, incurred by such participant for the project. The MDA shall make the calculations necessary to make the payments provided for in this section. The MDA shall cease making incentive payments to an approved participant on the occurrence of the earlier of (i) the date thirty-five percent (35%) of the portion of the original indebtedness that is funded from private sources, or any refinancing of the portion of the original indebtedness that is funded from private sources, incurred for the project or the portion of the original project capital cost that is funded from private sources incurred for the project, or both, is satisfied, (ii) ten (10) years from the date the original indebtedness for the project was incurred, without regard to any refinancing or additional financing for any addition to or expansion of the project, or (iii) the project ceases operations.

(2) At such time as payments are no longer required to be made to an approved participant, the MDA shall notify the State Tax Commission and the sales tax revenue collected from such project shall no longer be deposited into the Sales Tax Incentive Fund, and any amounts remaining in the fund that were collected from such participant shall be transferred to the State General Fund; however, if the project is located in a municipality, a portion of such amount shall be paid to such municipality in the same manner and amounts as provided for in Section 27-65-75(1).

SOURCES: Laws, 2000, ch. 616, § 2; Laws, 2002, ch. 549, § 2; reenacted and amended, Laws, 2004, ch. 580, § 2, eff from and after passage (approved May 27, 2004.)

Editor's Note — Laws of 2002, ch. 549, § 3, provides:

"SECTION 3. Sections 57-30-1 and 57-30-3 shall stand repealed from and after July 1, 2004."

Laws of 2004, ch. 580, § 4 provides as follows:

"SECTION 4. Section 3, Chapter 549, Laws of 2002, which provides for the repeal of Sections 57-30-1 and 57-30-3 on July 1, 2004, is repealed."

Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Cross References — Distribution of sales taxes, see § 27-65-75.

§ 57-30-5. Repealed.

Repealed by its own terms Laws of 2004, ch. 580, § 3 eff from and after July 1, 2005.

§ 57-30-5. [Laws, 2004, ch. 580, § 3, eff from and after passage (approved May 27, 2004.)]

Editor's Note — Former § 57-30-5 related to the development, implementation and administration of an incentive program to encourage the locating of certain family-oriented entertainment enterprises in Mississippi.

CHAPTER 31

County Industrial Development Authorities

Sec.
57-31-1. Establishment; composition; qualifications, appointment, and terms of office of members.
57-31-3. Oath and bond of members; meetings; compensation of members.
57-31-5. General powers of authority.
57-31-7. Receipt and expenditure of county funds.
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57-31-31. Acceptance of grants and contributions.
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§ 57-31-1. Establishment; composition; qualifications, appointment, and terms of office of members.

Any county in the State of Mississippi bordering on the Mississippi-Alabama state line, traversed by the Tombigbee River and in which is situated a senior institution of higher learning under the control of the Board of Trustees of Institutions of Higher Learning of the State of Mississippi, where the board of supervisors of such county shall find and determine that the public convenience and necessity requires the same, as evidenced by a resolution duly adopted and entered on the official minutes of such board, shall establish an industrial development authority, to be known as the industrial development authority of such county. The county industrial development authority shall be composed of seven (7) resident citizens of such county, who shall be qualified electors therein, appointed by the board of supervisors of such county for a term of four (4) years. One (1) member of such authority shall be appointed by the board of supervisors from each of the five (5) supervisors districts of said county, and the remaining two (2) members thereof shall be appointed from the county-at-large by said board of supervisors, from a list of four (4) nominees recommended by a nonprofit industrial development foundation operating within such county. Upon the creation of such authority, the members appointed thereto from supervisor district numbers one (1) and two (2) of such county shall be appointed for a term of one (1) year; the members thereof appointed from supervisor district numbers three (3) and four (4) shall be appointed for a term of two (2) years; the members thereof appointed from the county-at-large shall be appointed for a term of three (3) years; and the members thereof appointed from supervisor district number five (5) shall be appointed for a term of four (4) years. Thereafter, all appointments to such authority shall be for a term of four (4) years, or until a successor is qualified and appointed.

Said authority may, with the approval of the board of supervisors of the county in which the same is situated, authorize appointment of two (2) additional associate members of said authority to be appointed by the board of supervisors of any counties adjacent and contiguous to the county in which such authority is created, to serve without a vote.

SOURCES: Laws, 1974, ch. 504, § 1, eff from and after passage (approved April 2, 1974).

Cross References — Board of Trustees of State Institutions of Higher learning, see §§ 37-101-1 et seq.

§ 57-31-3. Oath and bond of members; meetings; compensation of members.

Before entering upon the duties of the office, each member of such authority, except any associate members, shall take and subscribe the oath of office required by Section 268, Mississippi Constitution of 1890, and shall give bond in the sum of five thousand dollars ($5,000.00), conditioned upon the faithful performance of his duties, such bond to be made payable to the county in which said authority is situated, and to be approved by the board of supervisors of such county. The members of such industrial development authority shall meet at the regular meeting place of the board of supervisors of such county within five (5) days after the members are initially appointed, and shall elect from among their number a president, vice president, and secretary-treasurer of the authority, and shall adopt a seal and such by-laws, rules and regulations as may be necessary to govern the time, place and manner for holding subsequent meetings of the authority and for conduct of its business, not inconsistent with the provisions of this chapter. The members of said authority shall serve without salary or compensation, provided, however, that their actual expenses incurred in performance of their duties may be reimbursed, including mileage as authorized by law for state employees.

SOURCES: Laws, 1974, ch. 504, § 2, eff from and after passage (approved April 2, 1974).

§ 57-31-5. General powers of authority.

(1) The industrial development authority is hereby expressly authorized and empowered to acquire by gift, purchase or otherwise, and to own, hold, maintain, control and develop real estate situated within the county, either within or without the corporate limits of a municipality for development, use and operation and shall be referred to herein as the "project." The industrial development authority is further authorized and empowered to engage in

works of internal improvement, including, but not limited to, construction or contracting for the construction of streets, roads, railroads, site improvements, water, sewerage, drainage, pollution and other related facilities necessary or required for industrial or commercial use and development within the county, and to acquire, purchase, install, lease, construct, own, hold, equip, control, maintain, use, operate, and repair other structures and facilities necessary and convenient for the planning, development, use, operation and maintenance within the county for industrial or commercial purposes, including, but not limited to, utility installations, elevators, compressors, warehouses, air, rail, and other transportation terminals and pollution control facilities.

(2) The authority is authorized and empowered to sell, lease, trade, exchange or otherwise dispose of industrial sites situated within the county to individuals, firms or corporations, public or private, for industrial or commercial use upon such terms and conditions for consideration and with safeguards as will best promote and protect the public interest, convenience and necessity, and to execute deeds, leases, contracts, easements, and other legal instruments necessary or convenient.

(3) The authority is authorized and empowered to fix and prescribe fees, charges and rates for the use of any water, sewerage, pollution or other facilities constructed and operated within the county and to collect the same from persons, firms and corporations using the same for industrial or commercial purposes.

(4) The authority is authorized and empowered to employ engineers, attorneys, accountants, consultants and such personnel as shall be reasonably necessary to carry out the duties and authority authorized by this chapter.

(5) The authority is expressly authorized and empowered to borrow money and issue negotiable promissory notes evidencing the same under the provisions of Section 57-31-9. In addition to or in lieu of the pledges authorized in Section 57-31-23, the authority may secure such notes by the execution of a deed of trust upon any real estate belonging to the authority not otherwise encumbered.

(6) The enumeration of any specific rights and powers contained herein, and elsewhere in this chapter, where followed by general powers, shall not be construed in a restrictive sense, but rather in as broad and comprehensive a sense as possible to effectuate the purposes of this chapter.

(7)(a) Any such sale, lease, trade, exchange or other disposition of industrial sites may be made, completed or executed upon such terms and conditions and for such monetary or other consideration as may be found adequate and approved by the authority in orders or resolutions authorizing the same subject to the provisions of paragraphs (b) and (c) of this subsection.

(b) In cases involving the lease of industrial sites, any covenants and obligations of the lessee to make expenditures in determined amounts, and within such time or times, for improvements to be erected on the land by such lessee and to conduct thereon industrial operations in such aggregate payroll amounts and for such period of time or times as may be determined by the authority and defined in the transaction documents, and to give preference in employment where practicable to qualified residents of the county, shall, if included in the transaction documents, constitute and be deemed sufficient consideration for the execution of any such transaction document in the absence of a monetary or other considerations. A lease may contain reasonable provisions giving the lessee the right to remove its or his improvements upon termination of the lease.

(c) In cases other than a lease of an industrial site, any covenants and obligations of the grantee to make expenditures in determined amounts, and within such time or times, for improvements to be erected on the land by such grantee and to conduct thereon industrial operations in such aggregate payroll amounts and for such period of time or times as may be determined by the authority and defined in the transaction documents, and to give preference in employment where practicable to qualified residents of the county, shall, if included in the transaction documents, constitute and be deemed sufficient consideration for the execution of any such transaction document in the absence of a monetary or other considerations.

SOURCES: Laws, 1974, ch. 504, § 3; Laws, 1976, ch. 429; Laws, 1991, ch. 409, § 1; Laws, 2002, ch. 554, § 1; Laws, 2007, ch. 580, § 24; Laws, 2007, ch. 1, 1st Ex Sess, § 8, eff from and after passage (approved May 11, 2007.)

Cross References — Development, use and operation of industrial parks by economic development districts in certain counties, see § 19-5-99.

Industrial parks and districts generally, see §§ 57-5-1 et seq.

§ 57-31-7. Receipt and expenditure of county funds.

The industrial development authority of the county created under the provisions of this chapter is hereby authorized to receive and expend funds from the board of supervisors of such county.

SOURCES: Laws, 1974, ch. 504, § 4; Laws, 1991, ch. 409, § 2, eff from and after July 1, 1991.

§ 57-31-9. Issuance of notes or bonds generally.

The authority shall have power and is hereby authorized with the approval and consent of the board of supervisors of such county, at one time or from time to time, to provide by resolution for the issuance of negotiable promissory notes or revenue bonds of the authority to provide funds for the purpose of paying all or any part of the cost of any project authorized by this chapter, but in no event shall the amount of such bonds issued for any project exceed the estimated cost of any such project nor shall the amount of such bonds exceed the amount which can be repaid, together with interest accruing thereon, from funds pledged to said authority under Section 27-39-329. The principal of and the interest on such revenue bonds shall be payable solely from a special fund to be provided for that purpose in the manner hereinafter set forth. Such bonds shall bear date or dates, be in such denomination or denominations, bear interest at such rate or rates, be payable at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times, be redeemable prior to maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by resolution of the authority; however, such bonds shall mature in annual installments extending not more than thirty (30) years from date thereof. Such bonds shall be signed by the president of the authority, or by his facsimile signature, and the official seal of the authority shall be affixed thereto, attested by the secretary of the authority. The interest coupons, if any, to be attached to such bonds may be executed by the facsimile signatures of said officers. Whenever any such bonds shall have been signed by the officials herein designated to sign the bonds who were in office at the time of such signing but who may have ceased to be such officers prior to the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until the delivery of the same to purchaser or had been in office on the date such bonds may bear. Prior to approval being granted by the board for bonds to be issued by the authority, the board shall comply with the provisions of Section 19-9-11. The bonds of any issue shall not bear a greater overall maximum interest rate to maturity than that allowed in Section 75-17-103. No bond shall bear more than one (1) rate of interest; each bond shall bear interest from its date to its stated maturity date at the interest rate specified in the bid; all bonds of the same maturity shall bear the same rate of interest from date to maturity; all interest accruing on such bonds so issued shall be payable semiannually or annually, except that the first interest coupon attached to any such bond may be for any period not exceeding one (1) year.

No interest payment shall be evidenced by more than one (1) coupon and neither cancelled nor supplemental coupons shall be permitted; the lowest interest rate specified for any bonds issued shall not be less than seventy percent (70%) of the highest interest rate specified for the same bond issue.

Each interest rate specified in any bid must be in multiples of one-eighth of one percent (⅛ of 1%) or in multiples of one-tenth of one percent (⅒ of 1%). The denomination, form, and place, or places, of payment of such bonds shall be fixed in the resolution or order of the authority issuing such bonds.

In addition to the other powers and authority granted by this section, the authority is granted the authority, with the approval and consent of the board of supervisors of the county, to provide by resolution for the issuance of a negotiable promissory note in an amount not to exceed Fifteen Million Dollars ($15,000,000.00) to provide funds for a project described in Section 57-75-5(f)(xxii) provided the authority makes a finding that the promissory note will be paid by bonds issued by the board of supervisors of the county. Compliance with the notice provisions of Section 19-9-11 shall not be required for the approval of such promissory note.

SOURCES: Laws, 1974, ch. 504, § 5; Laws, 1985, ch. 477, § 10; Laws, 2004, ch. 424, § 1; Laws, 2007, 1st Ex Sess, ch. 1, § 9, eff from and after passage (approved May 11, 2007.)

§ 57-31-11. Negotiability of bonds and interest coupons; exemption from taxation of bonds.

All revenue bonds and interest coupons issued under the provisions of this chapter shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code of the State of Mississippi. Such bonds and the income therefrom shall be exempt from all taxation within the State of Mississippi.

SOURCES: Laws, 1974, ch. 504, § 6, eff from and after passage (approved April 2, 1974).

Cross References — Negotiable instruments under the Mississippi Uniform Commercial Code, see §§ 75-3-101 et seq.

§ 57-31-13. Sale of bonds.

The authority may sell such bonds in such manner and for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale shall be made at a price less than par plus accrued interest to date of delivery of the bonds to the purchaser. Notice of the sale of any such bonds shall be published at least one time not less than ten (10) days prior to the date of sale and shall be so published in one (1) or more newspapers published in such county and in one (1) or more other newspapers or financial journals as may be directed by the authority.

SOURCES: Laws, 1974, ch. 504, § 7, eff from and after passage (approved April 2, 1974).

§ 57-31-15. Disposition of proceeds of bonds.

The proceeds of such bonds shall be paid into the county treasury to the credit of a special fund known as the industrial development authority construction fund, and shall be used solely for payment of the cost of the project except as hereinafter provided, and shall be disbursed upon order of the authority upon such restrictions, if any, as the resolution authorizing the issuance of the bonds may provide. If the proceeds of the bonds of any issue shall exceed the amount required for the purpose for which the bonds were issued, the surplus shall be paid into the fund established for the payment of the principal of and the interest on such bonds.

SOURCES: Laws, 1974, ch. 504, § 8, eff from and after passage (approved April 2, 1974).

§ 57-31-17. Validation of bonds.

Such revenue bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions, and things which are specified or required by this chapter. The bonds authorized under the authority of this chapter may, in the discretion of the authority, be validated in the chancery court of such county in the manner and with the force and effect as provided by law for the validation of county, municipal, school district, and other bonds.

SOURCES: Laws, 1974, ch. 504, § 9, eff from and after passage (approved April 2, 1974).

Cross References — Validation of public bonds generally, see §§ 31-13-1 et seq.

§ 57-31-19. Payment of bonds.

Revenue bonds issued under the provisions of this chapter shall not be deemed to constitute a debt of such county or a pledge of the faith and credit of such county, but such bonds shall be payable solely from the special fund provided therefor as hereinafter set forth, and the issuance of such revenue bonds shall not directly, indirectly, or contingently obligate the county to levy or pledge any form of taxation whatever therefor, and all such bonds shall contain recitals on their face substantially covering the foregoing provisions of this section.

SOURCES: Laws, 1974, ch. 504, § 10, eff from and after passage (approved April 2, 1974).

§ 57-31-21. Contents of bond issue resolution.

The resolution providing for the issuance of revenue bonds hereunder shall contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may reasonably be proper and not in violation of law, including, but not limited to, covenants setting forth the duties of the authority in relation to the acquisition of property, the construction of a project, the maintenance, operation, repair, and insuring of the project, and the custody, safeguarding, and application of all moneys, and may also provide that any project shall be constructed and paid for under the supervision and approval of the consulting engineers or architects employed or designated by the authority, and may also contain provisions concerning the conditions, if any, upon which additional revenue bonds may be issued.

SOURCES: Laws, 1974, ch. 504, § 11, eff from and after passage (approved April 2, 1974).

§ 57-31-23. Pledge and allocation of revenues, rents, and earnings.

The revenues, rents, and earnings derived from any project, or any and all revenues, rents, and earnings received by the authority unless necessary for operation, maintenance or repair of the project or unless otherwise pledged and allocated, may be pledged and allocated by the authority to the payment of the principal of and interest on the revenue bonds of the authority as the resolution authorizing the issuance of the bonds may provide, and such pledge may include funds received from one or more or all sources and shall be set aside at regular intervals into a sinking fund, which sinking fund shall be pledged to and charged with the payment of:

(a) The interest upon such revenue bonds as such interest shall accrue.

(b) The principal of the bonds as the same shall become due.

(c) The necessary charges of the paying agent or paying agents for paying principal and interest of and on such bonds.

The use and disposition of such sinking fund shall be subject to such regulations as may be provided in the resolution authorizing any issue of revenue bonds. Subject to the provisions of the resolution authorizing the issuance of the bonds, surplus moneys in the sinking fund may be applied to the purchase or redemption of any of such bonds, and any such bonds so purchased or redeemed shall forthwith be cancelled and shall not again be issued.

SOURCES: Laws, 1974, ch. 504, § 12, eff from and after passage (approved April 2, 1974).

§ 57-31-25. Enforcement of bondholder's rights.

Any holder of revenue bonds issued under the provisions of this chapter or of any of the interest coupons pertaining thereto, except to the extent that such rights are not restricted by the resolution directing the issuance of such bonds, may, either at law or in equity, by suit, action, mandamus, or other proceeding protect and enforce any and all rights granted hereunder or under such resolution, and may enforce and compel performance of all duties required by this chapter or by any such resolution or by any such lease agreement to be performed by the authority or any officer thereof, including the fixing, charging, and collecting of revenues, rents, and other charges for the use of the project, but no holder of any such bond shall have the right to compel any exercise of taxing power by such county to provide funds to pay any such bonds or the interest thereon, or to enforce the payment thereof against any property of such county, nor shall any such bond constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the county.

SOURCES: Laws, 1974, ch. 504, § 13, eff from and after passage (approved April 2, 1974).

§ 57-31-27. Bonds as legal investments and securities.

All bonds issued under the provisions of this chapter shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies, and insurance companies organized under the laws of the State of Mississippi, and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

SOURCES: Laws, 1974, ch. 504, § 14, eff from and after passage (approved April 2, 1974).

Cross References — Investments by domestic insurance companies, see § 83-19-51.

Fiduciary investments generally, see §§ 91-13-1 et seq.

§ 57-31-29. Exemption from taxation of property of authority.

The carrying out of the corporate purposes of the authority is in all respects for the benefit of the people of such county and is a public purpose, and the authority will be performing an essential governmental function in the exercise of the powers conferred upon it by this chapter. Hence, any property owned or held by the authority or under its jurisdiction under the provisions of this chapter shall be exempt from all taxation in the State of Mississippi.

SOURCES: Laws, 1974, ch. 504, § 15, eff from and after passage (approved April 2, 1974).

§ 57-31-31. Acceptance of grants and contributions.

The authority, in addition to the moneys which may be received by it from the sale of revenue bonds and from the collection of revenues, rents, and earnings derived under the provisions of this chapter, shall have the authority to accept from any public or private agency, or from any individual, grants for or in aid of the construction of any project, or for the payment of bonds, and to receive and accept contributions from any source, of money or property or other things of value to be held, used and applied only for the purposes for which such grants or contributions may be made.

SOURCES: Laws, 1974, ch. 504, § 16, eff from and after passage (approved April 2, 1974).

§ 57-31-33. Construction of chapter.

This chapter shall be deemed to be full and complete authority for the exercise of the powers herein granted, but this chapter shall not be deemed to repeal or to be in derogation of any existing law of this state whereunder projects of the character herein defined may be constructed or financed.

SOURCES: Laws, 1974, ch. 504, § 17, eff from and after passage (approved April 2, 1974).

CHAPTER 32

Southeast Mississippi Industrial Council

Sec.	
57-32-1.	Establishment; composition; qualifications, appointment and terms of office of members.
57-32-3.	Oath and bond of members; meetings; compensation of members.
57-32-5.	General powers.
57-32-7.	Appropriation of funds for support of council; tax levy.
57-32-9.	Additional levy to secure indebtedness of council.
57-32-11.	Use of revenues or proceeds derived from council property.
57-32-13.	Public nature of funds; audit.
57-32-15.	Reimbursement of millage under Homestead Exemption Laws.
57-32-17.	Transfer to council of assets, funds and personalty of Southeast Mississippi Industrial Development Council.
57-32-19.	Withdrawal by participating counties from Southern Mississippi Planning and Development District.

§ 57-32-1. Establishment; composition; qualifications, appointment and terms of office of members.

Any county having two (2) judicial districts and a population of fifty-six thousand, three hundred fifty-seven (56,357) according to the 1970 federal decennial census, together with any counties contiguous thereto, where the boards of supervisors of said counties, or any number of them, shall find and determine that the public convenience and necessity requires the same, as evidenced by a resolution duly adopted and entered on the official minutes of said boards of supervisors, may establish a planning, economic and industrial development council to be known as the "Southeast Mississippi Industrial Council," hereinafter called the "council." Said council shall be composed of three (3) resident citizens of each county participating in said council, who shall be qualified electors therein, appointed by the board of supervisors of each such county for terms of four (4) years, except as herein provided. Upon creation of said council, one (1) member shall be appointed from each county for a term of one (1) year; one (1) member shall be appointed from each county for a term of two (2) years; one (1) member shall be appointed from each county for a term of three (3) years. Any county becoming a participating member of the council after its creation shall appoint members in the same manner as set forth above. Each succeeding appointment to such council shall be for a term of four (4) years or until a successor is appointed and qualified.

SOURCES: Laws, 1976, ch. 32, § 1, eff from and after passage (approved May 6, 1976).

§ 57-32-3. Oath and bond of members; meetings; compensation of members.

Before entering upon the duties of the office, each member of said council shall take and subscribe the following oath: "I ________, do solemnly swear (or affirm) that I will faithfully support the Constitution of the United States and the Constitution of the State of Mississippi, and obey the laws thereof; that I am not disqualified from being a member of Southeast Mississippi Industrial Council; that I will faithfully discharge the duties of the office upon which I am about to enter; so help me God." In addition thereto, each member so appointed shall qualify by making a surety bond in an amount not less than ten thousand dollars ($10,000.00) indemnifying the council against malfeasance or misfeasance in office, the premiums on all such surety bonds being paid by the council. The members of said council shall meet at the regular meeting place of the board of supervisors of Jones County, Mississippi, within ten (10) days after the council is created, and shall elect from among their number a president, vice president and secretary-treasurer, and shall adopt a seal and such bylaws, rules and regulations as may be necessary to govern the time, place and manner for holding of subsequent meetings of the council and for the conduct of its business, not inconsistent with the provisions of this chapter. The members of said council shall serve without salary or compensation; provided, however, that their actual reasonable expenses incurred in performance of their duties may be reimbursed, including mileage as authorized by law for state employees.

SOURCES: Laws, 1976, ch. 432, § 2, eff from and after passage (approved May 6, 1976).

§ 57-32-5. General powers.

(1) The council may do anything within its power, not inconsistent with this chapter, to secure and further industrial and economic development of said counties, to advertise the natural resources and possibilities of the same, and to maintain and support the same.

(2) The council is hereby expressly authorized and empowered to acquire by gift, purchase or otherwise, and to own, hold, maintain, control and develop real estate situated within the participating counties, either within or without the corporate limits of a municipality, for development, use and operation of one or more industrial park complexes referred to herein as "project"; and is further authorized and empowered to engage in works of internal improvement therefor, including, but not limited to, construction or contracting for the construction of railroad spur tracks, site improvements, water, sewerage, drainage, pollution control and other related facilities necessary or required for industrial use and development of said park complexes; and to acquire, purchase, install, lease, construct, own, hold, equip, control, maintain, use, operate and repair other structures and facilities necessary and convenient for the planning, development, use, operation and maintenance of said parks for industrial purposes, including, but not limited to, utility installations, except those communications and electric power utilities already certificated in the area by the Mississippi Public Service Commission, elevators, compressors, warehouses, and air, rail and other transportation terminals and pollution control facilities. For the development of such projects, the council, in its own

name, is authorized and empowered to borrow money and contract for the borrowing of money, from time to time, as it may deem appropriate, and to pay interest upon such borrowed funds in such amount as it may negotiate, however, not exceeding such amount of interest as may be allowed to be paid under the provisions of Section 19-9-19, and to give as security for the payment of such indebtednesses deeds of trust or mortgages on all or any part of the real estate purchased, improved or benefited by the funds so borrowed. The council may, likewise, pledge the proceeds and revenues from any such project for the repayment of funds so borrowed. The pledge of any real estate or income from real estate held by the council shall be done only by order spread upon the minutes of said council after the affirmative vote of not less than two-thirds (⅔) of the members of the council. There shall be no personal liability of any member of said council for failure in the repayment of funds so borrowed.

(3) The council is authorized and empowered to sell, lease, trade, exchange or otherwise dispose of industrial sites situated within any of such projects to individuals, firms or corporations, public or private, for industrial and warehouse use upon such terms and conditions, for such consideration, and with such safeguards as will best promote and protect the public interest, convenience and necessity, and to execute deeds, leases, contracts, easements and other legal instruments necessary or convenient therefor. The council is granted the power to sue and be sued in its own name.

(4) Any industrial lease may be executed upon such terms and conditions and for such monetary rental or other consideration as may be found to be in the best interest of the public by the council by order or resolution spread upon its minutes authorizing the same. Any covenants and obligations of the lessee to make expenditures in determined amounts, and within such time or times, for improvements to be erected on the land by such lessee and to conduct thereon industrial or warehouse operations in such aggregate payroll amounts and for such period of time or times as may be determined and defined in such lease, and to give preference in employment where practicable to qualified residents of the counties constituting the council may, when included in such lease, constitute and be deemed sufficient consideration for the execution of any such lease in the absence of a monetary rental or other considerations, if found by the council and the board of supervisors of the affected county to be sufficient consideration and in the best interest of the public; any such instrument may contain reasonable provisions giving the lessee the right to remove its or his improvements upon termination of the lease.

(5) The council is authorized and empowered to fix and prescribe fees, charges and rates for the use of any water, sewerage, pollution control or other facilities constructed and operated in connection with said industrial parks and to collect the same from persons, firms and corporations using the same for industrial, warehouse and related purposes.

(6) Upon organization, the council is authorized and empowered to employ engineers, attorneys, accountants, technicians and consultants upon a fee or retainer basis, and such executive and administrative personnel and other employees as shall be reasonably necessary to carry out the duties and

authority authorized by this chapter, and to determine their qualifications and duties and to establish compensation and other employment benefits as may be advisable to attract and retain proficient personnel. The council, in addition to all other authority, is authorized and empowered to purchase, sell and trade office equipment, to purchase necessary supplies, to purchase such equipment and vehicles as the council deems necessary for the economic and industrial development of the member counties and to carry out the purposes of this chapter.

(7) The enumeration of any specific rights and powers contained herein, and elsewhere in this chapter, where followed by general powers, shall not be construed in a restrictive sense, but rather in as broad and comprehensive a sense as possible to effectuate the purposes of this chapter.

SOURCES: Laws, 1976, ch. 432, § 3; Laws, 1980; reenacted and amended, Laws, 1985, ch. 474, § 28; Laws, 1986, ch. 438, § 38; Laws, 1987, ch. 483, § 39; Laws, 1988, ch. 442, § 36; Laws, 1989, ch. 537, § 34; Laws, 1990, ch. 518, § 35; Laws, 1991, ch. 618, § 35; Laws, 1992, ch. 491 § 37, eff from and after passage (approved May 12, 1992).

Cross References — Participation in a comprehensive plan of one or more policies of liability insurance procured and administrated by the Department of Finance and Administration, see § 11-46-17.

§ 57-32-7. Appropriation of funds for support of council; tax levy.

The board of supervisors of each county electing to be a part of this council is authorized to set aside, appropriate and expend moneys from the general fund for the purpose of securing funds with which to support and maintain said council. Prior to the board of supervisors securing an indebtedness of the council under this chapter, the board shall comply with the provisions of Section 19-9-11. Provided, however, any tax levied previously under Section 19-9-111 by any county may be collected and paid to the council created hereby if such tax has not already been paid to the appropriate industrial council. Provided further, that the board of supervisors of any such participating county may, by appropriate order, designate a specific portion of the sum of its appropriation, not to exceed the revenue derived from three-fourths (¾) of one (1) mill, to be used by said council exclusively for industrial development of said county in any manner authorized by this chapter. The council is hereby authorized to receive and expend funds from the boards of supervisors of participating counties provided by taxation as aforesaid, together with any gifts, gratuities and donations from municipalities within any participating county and from any persons, firms or corporations desiring to make such donations. Such appropriations, gifts or donations shall be placed in such depository as the council may deem appropriate. Any funds designated by any county board of supervisors or the governing body of a municipality for exclusive use within said county shall not be commingled with any other funds, but shall be kept and expended separately.

SOURCES: Laws, 1976., ch. 432, § 4; Laws, 1986, ch. 400, § 46, eff from and after October 1, 1986.

§ 57-32-9. Additional levy to secure indebtedness of council.

Any county electing to designate a specific portion of the levy authorized by this chapter to industrial development within such county may also pledge to continue to levy an assessment, not in excess of three-fourths (¾) mill, against all of the assessed property in said county for a period of time no longer than twenty (20) years, in order to further secure any indebtedness of the council incurred pursuant to the granted authority under Section 57-32-5. Once the board of supervisors of any county has so pledged to levy such millage, not in excess of three-fourths (¾) mill, the county shall be obligated to continue such levy until the indebtedness of the council for which the levy was pledged under the authority of this chapter has been paid in full, but in no case shall such levy continue in force longer than twenty (20) years. No county shall be obligated to continue any levy to pay off any indebtedness of the council the board of supervisors of such county, by appropriate order, shall have approved the borrowing of such money by the council for a specific purpose and shall have pledged to levy such assessment, not in excess of three-fourths (¾) mill, for such specific indebtedness of the council.

SOURCES: Laws, 1976, ch. 432, § 5, eff from and after passage (approved May 6, 1976).

§ 57-32-11. Use of revenues or proceeds derived from council property.

Any revenues or proceeds derived from property purchased or acquired by the council with funds given or delivered to the council for a specific purpose shall be used exclusively for industrial development in the contributing county. Such funds shall not be commingled with other funds of the council, but shall be kept and expended solely for industrial development within the county specified, for the retirement of indebtedness on industrial property in such county. Once the indebtedness on any property acquired by the council with funds specified to be used in a certain county has been paid in full, the council shall execute a deed to such property to said county upon request to do so by resolution duly adopted by the board of supervisors of said county. In the absence of such request from the board of supervisors of such county the council shall continue to maintain the proceeds or revenues derived from such property in the separate fund to be used for industrial development exclusively within such county furnishing said funds.

SOURCES: Laws, 1976, ch. 432, § 6, eff from and after passage (approved May 6, 1976).

§ 57-32-13. Public nature of funds; audit.

All funds secured and expended under the provisions of this chapter shall be public funds and the auditor of public accounts of the State of Mississippi shall audit the same as other public funds are now audited.

SOURCES: Laws, 1976, ch. 432, § 7, eff from and after passage (approved May 6, 1972).

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer whenever they appear.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

§ 57-32-15. Reimbursement of millage under Homestead Exemption Laws.

Millage levied under the provisions of this chapter shall not be reimbursable under the provisions of the Homestead Exemption Laws, being Section 27-33-1 et seq.

SOURCES: Laws, 1976, ch. 432, § 8, eff from and after passage (approved May 6, 1972).

§ 57-32-17. Transfer to council of assets, funds and personalty of Southeast Mississippi Industrial Development Council.

After the creation of the Southeast Mississippi Industrial Council, the Southeast Mississippi Industrial Development Council is hereby authorized to transfer to the Southeast Mississippi Industrial Council any of its assets, funds and personal property.

SOURCES: Laws, 1976, ch. 432, § 9, eff from and after passage (approved May 6, 1972).

§ 57-32-19. Withdrawal by participating counties from Southern Mississippi Planning and Development District.

Any county electing to participate under the provisions of this chapter may not withdraw from the Southern Mississippi Planning and Development District for a period of five (5) years, if such county was a member of the Southern Mississippi Planning and Development District when this chapter was passed.

SOURCES: Laws, 1976, ch. 432, § 10, eff from and after passage (approved May 6, 1976).

CHAPTER 33

Southern Growth Policies Agreement

Sec.
57-33-1. Approval and terms of agreement.
57-33-3. Effect of agreement upon sovereign rights of local governments.

§ 57-33-1. Approval and terms of agreement.

The State of Mississippi shall adhere to the Southern Growth Policies Agreement by becoming a party state therein in the form substantially as follows:

SOUTHERN GROWTH POLICIES AGREEMENT

Article I. Findings and Purposes

(a) The party states find that the South has a sense of community based on common social, cultural and economic needs, and fostered by a regional tradition. There are vast potentialities for mutual improvement of each state in the region by cooperative planning for the development, conservation and efficient utilization of human and natural resources in a geographic area large enough to afford a high degree of flexibility in identifying and taking maximum advantage of opportunities for healthy and beneficial growth. The independence of each state and the special needs of subregions are recognized and are to be safeguarded. Accordingly, the cooperation resulting from this agreement is intended to assist the states in meeting their own problems by enhancing their abilities to recognize and analyze regional opportunities and take account of regional influences in planning and implementing their public policies.

(b) The purposes of this agreement are to provide:

(1) Improve facilities and procedures for study, analysis and planning of governmental policies, programs and activities of regional significance.

(2) Assistance in the prevention of interstate conflicts and the promotion of regional cooperation.

(3) Mechanisms for the coordination of state and local interests on a regional basis.

(4) An agency to assist the states in accomplishing the foregoing.

Article II. The Board

(a) There is hereby created the Southern Growth Policies Board, hereinafter called "the board."

(b) The board shall consist of five (5) members from each party state, as follows:

(1) The governor.

(2) Two (2) members of the state legislature, one (1) appointed by the presiding officer of each house of the legislature or in such other manner as the legislature may provide.

(3) Two (2) residents of the state who shall be appointed by the governor to serve at his pleasure.

(c) In making appointments pursuant to paragraph (b)(3), a governor shall, to the greatest extent practicable, select persons who, along with the other members serving pursuant to paragraph (b), will make the state's representation on the board broadly representative of the several socio-economic elements within his state.

(d)(1) A governor may be represented by an alternate with power to act in his place and stead if notice of the designation of such alternate is given to the board in such manner as its bylaws may provide.

(2) A legislative member of the board may be represented by an alternate with power to act in his place and stead unless the laws of his state prohibit such representation and if notice of the designation of such alternate is given to the board in such manner as its bylaws may provide. An alternate for a legislative member of the board shall be selected by the member from among the members of the legislative house in which he serves.

(3) A member of the board serving pursuant to paragraph (b)(3) of this article may be represented by another resident of his state who may participate in his place and stead, except that he shall not vote, provided that notice of the identity and designation of the representative selected by the member is given to the board in such manner as its bylaws may provide.

Article III. Powers

(a) The board shall prepare and keep current a statement of regional objectives, including recommended approaches to regional problems. The statement may also identify projects deemed by the board to be of regional significance. The statement shall be available in its initial form two (2) years from the effective date of this agreement, and shall be amended or revised no less frequently than once every six (6) years. The statement shall be in such detail as the board may prescribe. Amendments, revisions, supplements or evaluations may be transmitted at any time. An annual commentary on the statement shall be submitted at a regular time to be determined by the board.

(b) In addition to powers conferred on the board elsewhere in this agreement, the board shall have the power to make or commission studies, investigations and recommendations with respect to:

(1) The planning and programming of projects of interstate or regional significance.

(2) Planning and scheduling of governmental services and programs which would be of assistance to the orderly growth and prosperity of the region, and to the well-being of its population.

(3) Effective utilization of such federal assistance as may be available on a regional basis or as may have an interstate or regional impact.

(4) Measures for influencing population distribution, land use, development of new communities, and redevelopment of existing ones.

(5) Transportation patterns and systems of interstate and regional significance.

(6) Improved utilization of human and natural resources for the advancement of the region as a whole.

(7) Any other matters of a planning, data collection or informational character that the board may determine to be of value to the party states.

Article IV. Avoidance of Duplication

(a) To avoid duplication of effort and in the interest of economy, the board shall make use of existing studies, surveys, plans and data, and other materials in the possession of the governmental agencies of the party states and their respective subdivisions or in the possession of other interstate agencies. Each such agency, within available appropriations and if not expressly prevented or limited by law, is hereby authorized to make such materials available to the board and to otherwise assist it in the performance of its functions. At the request of the board, each such agency is further authorized to provide information regarding plans and programs affecting the region, or any subarea thereof, so that the board may have available to it current information with respect thereto.

(b) The board shall use qualified public and private agencies to make investigations and conduct research, but if it is unable to secure the undertaking of such investigations or original research by a qualified public or private agency, it shall have the power to make its own investigations and conduct its own research. The board may make contracts with any public or private agencies or private persons or entities for the undertaking of such investigations or original research within its purview.

(c) In general, the policy of paragraph (b) of this article shall apply to the activities of the board relating to its statement of regional objectives, but nothing herein shall be construed to require the board to rely on the services of other persons or agencies in developing the statement of regional objectives or any amendment, supplement or revision thereof.

Article V. Advisory Committees

The board shall establish a local governments advisory committee. In addition, the board may establish advisory committees representative of subregions of the South, civic and community interests, industry, agriculture, labor, or other categories or any combinations thereof. Unless the laws of a party state contain a contrary requirement, any public official of the party state or a subdivision thereof may serve on an advisory committee established pursuant hereto, and such service may be considered as a duty of his regular office or employment.

Article VI. Internal Management of the Board

(a) The members of the board shall be entitled to one (1) vote each. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor thereof. Action of the board shall be only at a meeting at which a majority of the members or their alternates are present. The board shall meet at least once a year. In its bylaws, and subject to such directions and limitations as may be contained therein, the board may delegate the exercise of any of its powers relating to internal administration and management to an executive committee or the executive director. In no event shall any such delegation include final approval of:

(1) A budget or appropriation request.

(2) The statement of regional objectives or any amendment, supplement or revision thereof.

(3) Official comments on or recommendations with respect to projects of interstate or regional significance.

(4) The annual report.

(b) To assist in the expeditious conduct of its business when the full board is not meeting, the board shall elect an executive committee of not to exceed twenty-three (23) members, including at least one (1) member from each party state. The executive committee, subject to the provisions of this agreement and consistent with the policies of the board, shall be constituted and function as provided in the bylaws of the board. One-half (½) of the membership of the executive committee shall consist of governors, and the remainder shall consist of other members of the board, except that at any time when there is an odd number of members on the executive committee, the number of governors shall be one (1) less than half of the total membership. The members of the executive committee shall serve for terms of two (2) years, except that members elected to the first executive committee shall be elected as follows: one (1) less than half of the membership for two (2) years and the remainder for one (1) year. The chairman, chairman-elect, vice-chairman and treasurer of the board shall be members of the executive committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the executive committee shall not affect its authority to act, but the board at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term.

(c) The board shall have a seal.

(d) The board shall elect, from among its members, a chairman, a chairman-elect, a vice-chairman and a treasurer. Elections shall be annual. The chairman-elect shall succeed to the office of chairman for the year following his service as chairman-elect. For purposes of the election and service of officers of the board, the year shall be deemed to commence at the conclusion of the annual meeting of the board and terminate at the conclusion of the next annual meeting thereof. The board shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the board, and together with the treasurer and such other personnel as the board may deem appropriate shall be bonded in such amounts as the board shall determine. The executive director shall be secretary.

(e) The executive director, subject to the policy set forth in this agreement and any applicable directions given by the board, may make contracts on behalf of the board.

(f) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director, subject to the approval of the board, shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the board, and shall fix the duties and compensation of such personnel. The board in its bylaws shall provide for the personnel policies and programs of the board.

(g) The board may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two (2) or more of the party jurisdictions or their subdivisions.

(h) The board may accept for any of its purposes and functions under this agreement any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association, foundation or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the board pursuant to this paragraph or services borrowed pursuant to paragraph (g) of this article shall be reported in the annual report of the board. Such report shall include the nature, amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.

(i) The board may establish and maintain such facilities as may be necessary for the transacting of its business. The board may acquire, hold and convey real and personal property and any interest therein.

(j) The board shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The board shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

(k) The board annually shall make to the governor and legislature of each party state a report covering the activities of the board for the preceding year. The board at any time may make such additional reports and transmit such studies as it may deem desirable.

(*l*) The board may do any other or additional things appropriate to implement powers conferred upon it by this agreement.

Article VII. Finance

(a) The board shall advise the governor or designated officer or officers of each party state of its budget of estimated expenditures for such period as may be required by the laws of that party state. Each of the board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states.

(b) The total amount of appropriation requests under any budget shall be apportioned among the party states. Such apportionment shall be in accordance with the following formula:

(1) One-third (⅓) in equal shares,

(2) One-third (⅓) in the proportion that the population of a party state bears to the population of all party states, and

(3) One-third (⅓) in the proportion that the per capita income in a party state bears to the per capita income in all party states.

In implementing this formula, the board shall employ the most recent authoritative sources of information and shall specify the sources used.

(c) The board shall not pledge the credit of any party state. The board may meet any of its obligations in whole or in part with funds available to it pursuant to Article VI(h) of this agreement, provided that the board takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the board makes use of funds available to it pursuant to Article VI(h), or borrows pursuant to this paragraph, the board shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same. The board may borrow against anticipated revenues for terms not to exceed two (2) years, but in any such event the credit pledged shall be that of the board and not of a party state.

(d) The board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the board shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the board shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the board.

(e) The accounts of the board shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the board.

(f) Nothing contained herein shall be construed to prevent board compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the board.

Article VIII. Cooperation With the Federal Government and Other Governmental Entities

Each party state is hereby authorized to participate in cooperative or joint planning undertakings with the federal government, and any appropriate agency or agencies thereof, or with any interstate agency or agencies. Such participation shall be at the instance of the governor or in such manner as state law may provide or authorize. The board may facilitate the work of state representatives in any joint interstate or cooperative federal-state undertaking authorized by this article, and each such state shall keep the board advised of its activities in respect of such undertakings, to the extent that they have interstate or regional significance.

Article IX. Subregional Activities

The board may undertake studies or investigations centering on the problems of one or more selected subareas within the region: provided that in its judgment, such studies or investigations will have value as demonstrations for similar or other areas within the region. If a study or investigation that would be of primary benefit to a given state, unit of local government, or intrastate or interstate area is proposed, and if the board finds that it is not justified in undertaking the work for its regional value as a demonstration, the board may undertake the study or investigation as a special project. In any such event, it shall be a condition precedent that satisfactory financing and personnel arrangements be concluded to assure that the party or parties benefited bear all costs which the board determines that it would be inequitable for it to assume. Prior to undertaking any study or investigation pursuant to this article as a special project, the board shall make reasonable efforts to secure the undertaking of the work by another responsible public or private entity in accordance with the policy set forth in Article IV(b).

Article X. Comprehensive Land Use Planning

If any two (2) or more contiguous party states desire to prepare a single or consolidated comprehensive land use plan, or a land use plan for any interstate area lying partly within each such state, the governors of the states involved may designate the board as their joint agency for the purpose. The board shall accept such designation and carry out such responsibility: provided that the states involved make arrangements satisfactory to the board to reimburse it or otherwise provide the resources with which the land use plan is to be prepared. Nothing contained in this article shall be construed to deny the availability for use in the preparation of any such plan of data and information already in the possession of the board or to require payment on account of the use thereof in addition to payments otherwise required to be made pursuant to other provisions of this agreement.

Article XI. Compacts and Agencies Unaffected

Nothing in this agreement shall be construed to:

(1) Affect the powers or jurisdiction of any agency of a party state or any subdivision thereof.

(2) Affect the rights or obligations of any governmental units, agencies or officials, or of any private persons or entities conferred or imposed by any interstate or interstate-federal compacts to which any one or more states participating herein are parties.

(3) Impinge on the jurisdiction of any existing interstate-federal mechanism for regional planning or development.

Article XII. Eligible Parties; Entry Into and Withdrawal

(a) This agreement shall have as eligible parties the states of Alabama, Arkansas, Delaware, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and West Virginia, the Commonwealth of Puerto Rico and the territory of the Virgin Islands, hereinafter referred to as "party states."

(b) Any eligible state may enter into this agreement and it shall become binding thereon when it has adopted the same: provided that in order to enter into initial effect, adoption by at least five (5) states shall be required.

(c) Adoption of the agreement may be either by enactment thereof or by adherence thereto by the governor; provided that in the absence of enactment, adherence by the governor shall be sufficient to make his state a party only until December 31, 1973. During any period when a state is participating in this agreement through gubernatorial action, the governor may provide to the board an equitable share of the financial support of the board from any source available to him. Nothing in this paragraph shall be construed to require a governor to take action contrary to the Constitution or laws of his state.

(d) Except for a withdrawal effective on December 31, 1973, in accordance with paragraph (c) of this article, any party state may withdraw from this agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one (1) year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

Article XIII. Construction and Severability

This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable, and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the Constitution of any state or of the United States, or the application thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the Constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters.

SOURCES: Laws, 1975, ch. 400, § 1; Laws, 1980, ch. 323, eff from and after July 1, 1980.

Comparable Laws from other States — Alabama Code, §§ 41-18-1 et seq.
Arkansas Code Annotated, §§ 15-2-101.
Georgia Code Annotated, §§ 12-10-20 et seq.
Kentucky Code, §§ 147.580 et seq.
Louisiana Revised Statutes, § 49:61.
North Carolina General Statutes, §§ 143-490 et seq.
Oklahoma Statutes Annotated, §§ 3501 et seq.
South Carolina Code Annotated, § 13-13-10.
Tennessee Code Annotated, §§ 13-2-101 et seq.
Virginia Code Annotated, §§ 2.2-5700 et seq.

§ 57-33-3. Effect of agreement upon sovereign rights of local governments.

No section, article or provision contained herein shall be construed so as to prohibit, restrict or restrain the action of any individual member state, or the action of any county or municipal government within the boundaries of any individual member state, nor shall any delegate from the State of Mississippi be authorized by this legislature to cast any vote that would in any manner restrict the sovereign rights presently granted to or retained by this state under the United States Constitution or the rights of any local governments granted by the Constitution of the State of Mississippi or by statutory acts of the legislature.

SOURCES: Laws, 1975, ch. 400, § 2, eff from and after passage (approved March 24, 1975).

Comparable Laws from other States — Alabama Code, §§ 41-18-1 et seq.
Arkansas Code Annotated, §§ 15-2-101.
Georgia Code Annotated, §§ 12-10-20 et seq.
Kentucky Code, §§ 147.580 et seq.
Louisiana Revised Statutes, § 49:61.
North Carolina General Statutes, §§ 143-490 et seq.
Oklahoma Statutes Annotated, §§ 3501 et seq.
South Carolina Code Annotated, § 13-13-10.
Tennessee Code Annotated, §§ 13-2-101 et seq.
Virginia Code Annotated, §§ 2.2-5700 et seq.

CHAPTER 34

Alabama-Mississippi Joint Economic Development Authority

Sec.	
57-34-1.	Title.
57-34-3.	Findings.
57-34-5.	Definitions.
57-34-7.	Creation; governance; authority to act.
57-34-9.	Taxation; incentives; allocation; distribution.
57-34-11.	Cross-border activities.
57-34-13.	Funding.
57-34-15.	Severability; construction.

§ 57-34-1. Title.

This chapter shall be known and may be cited as the "Alabama-Mississippi Joint Economic Development Act."

SOURCES: Laws, 2005, ch. 401, § 1, eff from and after passage (approved Mar. 16, 2005.)

§ 57-34-3. Findings.

The Legislature hereby finds and declares the following:

(a) There exists in the State of Alabama and in the State of Mississippi a continuing need for gainful employment for the citizens of both states.

(b) There are significant advantages that will be realized from a cooperative approach between the two (2) states with respect to economic development of the area in each state along the border of the State of Alabama and the State of Mississippi.

(c) In order to increase the gainful employment opportunities of the citizens of both states residing in such area, the Alabama-Mississippi Joint Economic Development Authority is hereby created with the purpose of securing the location of major economic impact projects within the area along the border of the State of Alabama and the State of Mississippi.

(d) In order to accomplish this purpose, the authority shall be authorized by this agreement and by operation of other appropriate statutes, to act by cooperative endeavor with the State of Alabama, the State of Mississippi and with agencies and persons with such states to secure the economic development and welfare of the region.

SOURCES: Laws, 2005, ch. 401, § 2, eff from and after passage (approved Mar. 16, 2005.)

§ 57-34-5. Definitions.

As used in this chapter, the following words and phrases shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:

(a) "Act" means the provisions of this chapter.

(b) "Authority" means the Alabama-Mississippi Joint Economic Development Authority created pursuant to this chapter.

(c) "Board of directors" means the board of directors of the authority.

(d) "Designated geographic area" means:

(i) Those counties in the State of Alabama that share a common border with any county in the State of Mississippi; and

(ii) Those counties in the State of Mississippi that share a common border with any county in the State of Alabama.

(e) "Herein," "hereby," "hereunder," "hereof" and other equivalent words refer to this chapter as an entirety and not solely to the particular section or portion thereof in which any such word is used.

(f) "Project" means:

(i) Any industrial, commercial, research and development, warehousing, distribution, transportation, processing, mining, United States government or tourism enterprise together with all real property required for construction, maintenance and operation of the enterprise:

1. With an initial capital investment of not less than Three Hundred Million Dollars ($300,000,000.00) from private or United States government sources together with all buildings, and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise; or

2. With an initial capital investment of not less than One Hundred Fifty Million Dollars ($150,000,000.00) from private or United States government sources together with all buildings and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise and which creates at least one thousand (1,000) net new full-time jobs; or

3. Which creates at least one thousand (1,000) net new full-time jobs which provide an average hourly wage of not less than two hundred percent (200%) of the federal minimum wage in effect on the date the project is placed in service.

(ii) Any addition to, or expansion of, any existing enterprise as described in this paragraph if the addition or expansion:

1. Has an initial capital investment of not less than Three Hundred Million Dollars ($300,000,000.00) from private or United States government sources;

2. Has an initial capital investment of not less than One Hundred Fifty Million Dollars ($150,000,000.00) from private or United States government sources together with all buildings and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise and which creates at least one thousand (1,000) net new full-time jobs; or

3. Creates at least one thousand (1,000) net new full-time jobs which provide an average hourly wage of not less than two hundred percent (200%) of the federal minimum wage in effect on the date the project is placed in service.

(iii) Any development with an initial capital investment from private sources of not less than Seven Hundred Fifty Million Dollars ($750,000,000.00) which will create at least three thousand (3,000) net new full-time jobs satisfying criteria to be established by the authority.

In addition to meeting the other requirements of this paragraph, in order to fall within the definition of the term "project":

(i) The enterprise or development must be located within the designated geographic area; and

(ii) Each state must provide funds or in kind contributions equal to at least one-third (⅓) of the total costs of the project to the states.

(g) "Project agreement" means an agreement, approved by the legislature of the states, setting forth certain obligations, responsibilities, benefits, administrative matters and any other matters with respect to a specific project that are not inconsistent with the terms of this chapter as the legislatures of the states deem appropriate with respect to a specific project.

(h) "Project tax revenues" means:

(i) All of the following state and local taxes paid directly to a state or a local government by the project: income taxes, ad valorem taxes on real and personal property, sales and use taxes, franchise taxes, license taxes, excise taxes and severance taxes; and

(ii) All state and local personal income tax and occupational tax withholdings from employees of the project attributable to employment at the project.

(i) "States" means the State of Alabama and the State of Mississippi collectively.

SOURCES: Laws, 2005, ch. 401, § 3, eff from and after passage (approved Mar. 16, 2005.)

§ 57-34-7. Creation; governance; authority to act.

(1) The Alabama-Mississippi Joint Economic Development Authority is hereby created by the states for the performance of essential public functions.

(2) The authority shall be governed by a board of directors consisting of the Director of the Alabama Development Office and the Executive Director of the Mississippi Major Economic Impact Authority. The board of directors shall administer, manage and direct the affairs and business of the authority. The board of directors shall act by unanimous consent in exercising the powers now or hereafter granted to the authority and in administering, managing and directing the affairs and business of the authority. The board of directors may delegate the performance of any administrative functions to such persons or public agencies of either of the states as the board of directors deems appropriate.

(3) The board of directors may enter into an administrative agreement setting forth any provision regarding:

(a) The management and operation of the authority;

(b) The terms, conditions or manner in which the authority will engage in projects; and

(c) Any other matters not inconsistent with the terms or purposes of this chapter.

(4) The board of directors may negotiate and enter into a project agreement setting forth any provisions relating to a specific project that are not inconsistent with the terms or purposes of this chapter.

(5) The authority, through its board of directors, is hereby authorized, designated and empowered to:

(a) Promulgate rules and regulations consistent with this chapter concerning such matters as the authority deems appropriate;

(b) Take all steps necessary or appropriate to effect the siting, development and operation of a project within the designated geographic area;

(c) Act on behalf of the states in submitting site and incentive proposals for any project. Notwithstanding anything in this chapter to the contrary, no proposal shall be binding upon the authority or the states until after the project agreement, and the incentives contained in the agreement with respect to the project, have been approved by the legislatures of both states as required under the laws of each state;

(d) To employ or contract with architects, engineers, attorneys, accountants, construction and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix and pay their compensation;

(e) To make applications and enter into any contracts for financial assistance as may be appropriate under applicable federal law or the laws of either state;

(f) To apply for, accept and utilize grants, gifts and other funds or aid from any source for any purpose contemplated by this chapter, and to comply, subject to the provisions of this chapter, with the terms and conditions thereof; and

(g) To acquire by purchase, lease, gift, or in other manner, or obtain options to acquire and to own, maintain, use, operate and convey any and all property of any kind, public or private, real, personal, or mixed, or any interest or estate therein, within the designated geographic area necessary for the project or any facility related and necessary to the project.

(6) If an area within the designated geographic area is selected as the preferred project site for a project and the legislatures of the states have approved a project agreement with respect to the project, the authority is hereby designated and empowered to coordinate fully the development of the project with private business, the United States government and public agencies and/or political subdivisions of both states.

(7) The authority shall create a separate account for money that it receives from sources other than the states and shall account for such monies separate from appropriations and other monies from the states.

SOURCES: Laws, 2005, ch. 401, § 4, eff from and after passage (approved Mar. 16, 2005.)

§ 57-34-9. Taxation; incentives; allocation; distribution.

(1) A project shall be subject to taxation in the state in which the project is located. A project shall be subject to all state and local taxes in the state in which the project is located that are levied on other enterprises of similar nature in the state.

(2) For purposes of determining an entity's state tax liability with respect to a project, an entity engaging in a project located in the designated geographic area may request tax incentives offered by the state in which the project is located. Tax incentives and modifications to implement more favorable incentives may be offered to the project at the discretion of the authority. No such incentives are final without approval of the legislatures of the states.

SOURCES: Laws, 2005, ch. 401, § 5, eff from and after passage (approved Mar. 16, 2005.)

§ 57-34-11. Cross-border activities.

All public agencies and political subdivisions of the States of Alabama and Mississippi are hereby authorized to perform for the benefit of any project any functions, activities or services that such agencies are otherwise permitted by law to perform regardless of where the project is located.

SOURCES: Laws, 2005, ch. 401, § 6, eff from and after passage (approved Mar. 16, 2005.)

§ 57-34-13. Funding.

The authority shall submit annually to the executive head or designated officer or officers of each state a budget of its estimated expenditures for such year as may be required by the laws of that state for presentation to the legislature thereof. The total amount of the authority's budget of estimated expenditures shall be apportioned among the states in equal shares. Subject to appropriation by the legislatures of the states, the authority shall be provided with such funds by each of the states as are necessary to enable the authority to fulfill the powers and duties imposed upon and entrusted to it.

SOURCES: Laws, 2005, ch. 401, § 7, eff from and after passage (approved Mar. 16, 2005.)

§ 57-34-15. Severability; construction.

The provisions of this chapter shall be severable, and if any phrase, clause, sentence or provision of this chapter is declared unconstitutional or the application thereof to any agency, person or circumstance is held invalid, the constitutionality of the remainder of this chapter and the applicability thereof to any other agency, person or circumstance shall not be affected thereby. It is the legislative intent that the provisions of this chapter be reasonably and liberally construed so as to accomplish the purposes set forth in Section 57-34-3 of this chapter.

SOURCES: Laws, 2005, ch. 401, § 8, eff from and after passage (approved Mar. 16, 2005.)

CHAPTER 35

Tennessee River Valley Association

Sec.

57-35-1. State membership in Tennessee River Valley Association authorized.

§ 57-35-1. State membership in Tennessee River Valley Association authorized.

That the Governor of the State of Mississippi be, and he is hereby, authorized and empowered for and on behalf of the State of Mississippi to join the Tennessee River Valley Association and the State of Mississippi may remain a member so long as the expense of such membership does not extend five thousand dollars ($5,000.00) per annum.

SOURCES: Laws, 1976, ch. 465, eff from and after passage (approved May 21, 1976).

Editor's Note — The preamble to Chapter 465 of the Laws of 1976 provides as follows:

"Whereas, the Tennessee River Valley Association is a regional economic development organization which includes among its members some three hundred (300) counties in the states of Alabama, Georgia, Kentucky, Mississippi, North Carolina, Tennessee, and Virginia, and said association is a strong supporter of the Tennessee-Tombigbee Waterway, the Yellow Creek Port, and early completion of the Natchez Trace Parkway; and

"Whereas, it would be to the benefit and advantage of the State of Mississippi to join with the states of Alabama, Kentucky, and Tennessee in membership in said association and in providing financial support therefore; now, therefore,

"Be it enacted by the Legislature of the State of Mississippi:".

CHAPTER 36

Chickasaw Trail Economic Development Compact [Repealed]

§§ 57-36-1 through 57-36-5. Repealed.

Repealed pursuant to their own terms, effective from and after June 30, 2003.

§ 57-36-1. [Laws, 1996, ch. 467, § 1; Laws, 1998, ch. 553, § 1; Laws, 2000, ch. 567, § 1, eff from and after passage (approved May 20, 2000.).]

§ 57-36-3. [Laws, 1996, ch. 467, § 2; Laws, 1998, ch. 553, § 2, eff from and after July 1, 1998.]

§ 57-36-5. [Laws, 1996, ch. 467, § 3, eff from and after passage (approved April 3, 1996).]

Editor's Note — Laws of 2003, ch. 310, §§ 1-3, effective March 7, 2003, added repealer provisions to §§ 57-36-1 through 57-36-5, repealing those sections from and after June 30, 2003. Sections 57-36-1 through 57-36-5 have been set out as repealed pursuant to the terms of the repealer provisions contained therein.

Former § 57-36-1 was entitled: "Adoption and terms of compact."

Former § 57-36-3 was entitled: "Powers of state officers."

Former § 57-36-5 was entitled: "Severability."

CHAPTER 37

Transportation Planning Council
[Repealed]

§§ 57-37-1 through 57-37-21. Repealed.

Repealed by Laws, 1980, ch. 548, § 19, eff from and after May 26, 1980. [Laws, 1978, ch. 510 §§ 1-11]

Editor's Note — Former §§ 57-37-1 through 57-37-21 established the Mississippi Transportation Planning Council for the purposes of evaluating the state's transportation needs and developing a statewide coordinated plan to meet those needs. For present provisions regarding transportation planning, see §§ 57-39-1 through 57-39-43.

CHAPTER 39

Energy and Transportation Planning

Article 1. Energy Management Planning 57-39-1
Article 3. Energy Management Law of 1981 57-39-101
Article 5. School Energy Conservation Program 57-39-201

Article 1.

Energy Management Planning.

Sec.
57-39-1. Legislative purpose and directives.
57-39-3. Repealed.
57-39-5 and 57-39-7. Repealed
57-39-9. General powers and duties of division.
57-39-11. Mississippi Energy Plan.
57-39-13. Hearings; administration of oaths.
57-39-15 and 57-39-17. Repealed
57-39-19. Development and implementation of state energy management plan for state-owned and operated facilities.
57-39-21. Energy efficiency standards for buildings [Repealed effective July 1, 2016].
57-39-23 through 57-39-35. Repealed
57-39-37. Repealed.
57-39-39. Energy Development Fund.
57-39-41. Repealed.
57-39-43. Mississippi oil overcharge fund established.
57-39-45. Compilation, analysis and dissemination of data for the purpose of maximizing Mississippi's energy resources.

§ 57-39-1. Legislative purpose and directives.

(1) The purpose of this chapter is to coordinate all energy-related needs and activities in Mississippi with the objective of providing an efficient and economical energy system through a statewide plan. To that end, the Mississippi Development Authority is directed to evaluate this state's energy needs and availability.

(2) The powers, duties and responsibilities of the Board of Energy and Transportation with respect to the state's energy needs and activities are transferred to the Mississippi Development Authority, and wherever the word "board" appears in this chapter meaning the former Board of Energy and Transportation it shall mean the Mississippi Development Authority. Whenever the word "division" appears in this chapter, it shall mean the Mississippi Development Authority Energy and Natural Resources Division.

SOURCES: Laws, 1980, ch. 548, § 1; Laws, 1992, ch. 496, § 39; Laws, 2013, ch. 538, § 2, eff from and after July 1, 2013.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Laws of 2013, ch. 538, § 1, provides:

"SECTION 1. This act shall be known and may be cited as the 'Mississippi Energy Sustainability and Development Act.'"

Amendment Notes — The 2013 amendment substituted "Mississippi Development Authority" for "Department of Economic and Community Development" in the second sentence of (1); and in (2), substituted "Mississippi Development Authority" for "Department of Economic and Community Development" twice, and added the last sentence.

§ 57-39-3. Repealed.

Repealed by Laws, 1992, ch. 496, § 55, eff from and after July 1, 1992.

[Laws, 1980, ch. 548, § 2; Laws, 1989, ch. 544, § 54, eff from and after July 1, 1989]

Editor's Note — Former § 57-39-3 transferred all the functions of the Mississippi Energy and Transportation Board to the Mississippi Department of Economic and Community Development.

§§ 57-39-5 and 57-39-7. Repealed.

Repealed by Laws, 1989, ch. 544, §§ 56 and 57, eff from and after July 1, 1989.

§ 57-39-5. [En Laws, 1980, ch. 548, § 3; Laws, 1988, ch. 518, § 61]

§ 57-39-7. [En Laws, 1980, ch. 548, § 4; Laws, 1981, ch. 376, § 1]

Editor's Note — Former § 57-39-5 created the Mississippi Transportation Advisory Council.

Former § 57-39-7 provided for the employment of an executive director of the Mississippi Energy and Transportation Board.

§ 57-39-9. General powers and duties of division.

The powers and duties of the division shall include, but not be limited to, the following:

(a) To promote Mississippi as a leader in energy development, job creation and research.

(b) To contribute to economic development activities related to the energy production and manufacturing sectors.

(c) To promote energy efficiency across state government and within the private sector and other sectors, so that the state can realize the monetary and environmental benefits of energy efficiency.

(d) To prepare, when necessary, a Mississippi Energy Plan and a State Energy Management Plan as hereinafter set forth.

(e) To develop policies and long-term strategic plans for the State of Mississippi to accomplish the duties hereinafter set forth.

(f) To collect, maintain and provide analysis of data related to energy consumption, production and natural resources pertinent to the development of more energy opportunities within the state.

(g) To promote the development, manufacturing and use of renewable technologies, processes and products in the state.

(h) To serve as the State Energy Office for the State of Mississippi and fulfill requirements of the State Energy Office as mandated by the federal government or the Governor.

(i) To prepare implementation programs in accordance with the requirements of the plan.

(j) Upon request, to accept, receive and receipt for federal monies and other monies, either public or private, for and in behalf of this state. Upon request of any political subdivision of the state, to accept, receive and receipt for any designated purpose, federal monies and other monies, either public or private, for and in behalf of any such political subdivision.

(k) To confer with or to hold joint hearings with any agency of the United States in connection with any matter arising under this chapter, or relating to the sound development of energy utilization.

(*l*) To perform such acts, make, promulgate and amend such reasonable general or special rules, regulations and procedures as it shall deem necessary to carry out the provisions of this chapter and to perform its duties hereunder. No rules, regulations or procedures prescribed by the board shall be inconsistent with, or contrary to, any acts of the Congress of the United States or any regulations promulgated pursuant thereto, or to this chapter or any other statutes of the State of Mississippi.

(m) To enter into contracts, grants and cooperative agreements with any federal or state agency, department or subdivision thereof, or any public or private institution located inside or outside the State of Mississippi, or any person, corporation or association in connection with carrying out the provisions of this chapter, provided the agreements do not have a financial cost in excess of the amounts appropriated for such purposes by the Legislature.

(n) As required by the federal government or as directed by the Governor of the State of Mississippi, to establish a state program to administer the State Petroleum Set-Aside Program and to provide assistance in obtaining adjustments specified in orders issued by the Federal Energy Office.

SOURCES: Laws, 1980, ch. 548, § 5; Laws, 1989, ch. 544, § 55; Laws, 1992, ch. 496, § 40; Laws, 2013, ch. 538, § 3, eff from and after July 1, 2013.

Editor's Note — Laws of 2013, ch. 538, § 1, provides:

"SECTION 1. This act shall be known and may be cited as the 'Mississippi Energy Sustainability and Development Act.'"

Amendment Notes — The 2013 amendment substituted "division" for "board" in the first paragraph; added (a) through (c), (e) through (h) and (n); deleted former (e), (f) and (g), requiring the availing of cooperation etc., with United States agencies, furnishing cooperation, etc., to United States agencies, and availing of cooperation, etc., with other states, respectively; redesignated the remaining subsections accordingly; and inserted "and a State Energy Management Plan" in (d).

§ 57-39-11. Mississippi Energy Plan.

The division shall be tasked with developing, implementing and refining over time the Mississippi Energy Plan. The Mississippi Energy Plan shall include, but not be limited to the following:

(a) Efforts to promote Mississippi as a leader in energy development, job creation and research;

(b) Plans to encourage the safe and responsible exploration and extraction of the state's natural resources;

(c) Plans to add value and sustain resources through advances in manufacturing, conversion, and processing related to energy consumption and generation;

(d) Expanding energy capacity and realizing savings through energy efficiency;

(e) Encourage investments in the energy infrastructure of transmission and distribution to maintain the state's leadership in this area;

(f) Plans to ensure the state competes in technology-based energy economic development, research and development, and commercialization;

(g) Prepare a twenty-first century energy workforce;

(h) Statewide forecasts of energy needs and deficiencies;

(i) A program for directing the expenditure of local, state and federal energy funds in conformity with the statewide plan;

(j) Statewide implementation program, including a schedule of improvement programs, an operations program, a financial plan, necessary policies and legislation for implementation of the energy plan; and

(k) Financial impact statement.

SOURCES: Laws, 1980, ch. 548, § 6; Laws, 1992, ch. 496, § 41; Laws, 2013, ch. 538, § 4, eff from and after July 1, 2013.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error. The designation, "(1)" was deleted at the beginning of the section, as there was no (2) as enacted.

Editor's Note — Laws of 2013, ch. 538, § 1, provides:

"SECTION 1. This act shall be known and may be cited as the 'Mississippi Energy Sustainability and Development Act.'"

Amendment Notes — The 2013 amendment rewrote the section.

Cross References — Consultation with board by Public Service Commission in connection with analyses of electricity needs in state, see § 77-3-14.

§ 57-39-13. Hearings; administration of oaths.

Hearings shall be open to the public and shall be held upon such call or notice as the board shall deem advisable, in compliance with and as directed by federal and state statutes. The chairman, vice chairman or employee of the board designated by it to hold any inquiry, investigation or hearing shall have the power to administer oaths and affirmations and certify to all official acts.

SOURCES: Laws, 1980, ch. 548, § 7, eff from and after passage (approved May 26, 1980).

§§ 57-39-15 and 57-39-17. Repealed.

Repealed by Laws of 2013, ch. 538, §§ 9 and 10, effective from and after July 1, 2013.

§ 57-39-15. [Laws, 1980, ch. 548, § 8, eff from and after passage (approved May 26, 1980).]

§ 57-39-17. [Laws, 1980, ch. 548, § 9, eff from and after passage (approved May 26, 1980).]

Editor's Note — Former § 57-39-15 provided for the submission of the Mississippi Energy Plan to the legislature.

Former § 57-39-17 related to additional programs and activities of the Board of Energy and Transportation.

§ 57-39-19. Development and implementation of state energy management plan for state-owned and operated facilities.

(1) To ensure that state-owned facilities be operated in an energy-efficient manner to reduce operating costs to the General Fund and demonstrate successful energy consumption reduction strategies to other sectors of the state economy, the division shall coordinate the development and implementation of a general energy management plan for state-owned and operated facilities in conjunction with the Department of Finance and Administration, Bureau of Building, Grounds and Real Property Management. The general energy management plan shall include, but not be limited to, the following elements:

(a) Gathering of energy-related data from state agencies, state institutions of higher learning, and community and junior colleges in a form and manner as required by the division;

(b) Benchmarking of energy consumption and costs;

(c) Use of a central system to aggregate and track energy consumption data for all state-owned facilities;

(d) Model buildings and facilities energy audit procedures;

(e) Model energy consumption reduction techniques;

(f) Uniform data analysis procedures;

(g) Model employee energy education program procedures;

(h) Model training program for agency and institution personnel and energy coordinators;

(i) Model guidelines for buildings and facilities managers;

(j) Program monitoring and evaluation procedures.

(2) The State Energy Management Plan shall also include a description of actions to reduce consumption of electricity and nonrenewable energy sources used for heating, cooling, ventilation, lighting and water heating. A designee of

each of the following entities — the Board of Trustees of State Institutions of Higher Learning, the Community College Board, the Department of Education, and the Department of Finance and Administration shall assist in the preparation of the State Energy Management Plan and serve together on an advisory board; the director of the division shall serve as the head of this board and shall convene representatives of these institutions no fewer than once each year in order to review implementation of the State Energy Management Plan.

(3) The State Energy Management Plan shall be developed and implemented with input and assistance from the Department of Finance and Administration, Bureau of Building, Grounds and Real Property Management, and the two (2) state agencies shall work together and pledge to use pertinent resources and programs in conjunction with one another to accomplish the goals described in this section.

(4) The Department of Finance and Administration, Bureau of Building, Grounds and Real Property Management shall transmit to the division an updated state building inventory on an annual basis.

(5) All state agencies having buildings on the inventory of buildings submitted to the Department of Finance and Administration as well as all institutions of higher learning and community and junior colleges (hereafter referred to as "covered entities"), shall submit energy consumption in a form and manner prescribed by the division.

(6) Energy-related data may include, but shall not be limited to, the following:

(a) Electrical consumption data;

(b) Natural gas consumption; and

(c) Fuel oil consumption.

Any covered entity that does not enter its energy data in the form and manner prescribed by the division shall, at the discretion of the division, not be eligible to receive energy conservation funds from the Bureau of Building, Grounds and Real Property Management or be eligible to receive any state, federal or other funds from the division. The Mississippi Development Authority, in coordination with the Bureau of Building, Grounds and Real Property Management, shall promulgate rules pertaining to this section.

(7) By September 1 of each year, the division shall provide to the Legislature and the Governor a report on the energy consumption of covered entities. This report shall include, but shall not be limited to, total energy consumption for the state, total costs related to the energy metrics being tracked, increases or decreases from year-to-year by the state and by each covered entity, and forecast models for the coming fiscal year. The Bureau of Building, Grounds and Real Property Management shall provide assistance in the development of this report, as needed. The division will also provide a list of covered entities that have not reported data in accordance with this section.

(8) By November 1, 2014, and each subsequent five-year interval, each covered entity must submit a detailed energy management plan to the division. The detailed energy management plan shall describe specific measures to be taken to reduce the agency's energy consumption by energy unit

measure over a five-year period. The plan shall also include a timetable to accomplish the agency's reduction goals. If the detailed energy management plan meets the criteria developed by the division, the division shall approve the plan. If the detailed energy management plan fails to meet the criteria, the division shall disapprove the detailed energy management plan and notify the submitting agency in writing, including the reasons for disapproval. Covered entities that do not submit an energy management plan by the deadline or fail to remedy changes subsequently required by the division shall, at the discretion of the division, not be eligible to receive energy conservation funds from the Bureau of Building, Grounds and Real Property Management or be eligible to receive capital improvement funds from the Bureau of Building, Grounds and Real Property Management or be eligible to receive any state, federal or other funds from the division until such time as the entity has an energy management plan approved by the division.

SOURCES: Laws, 1980, ch. 548, § 10; Laws, 2013, ch. 538, § 5, eff from and after July 1, 2013.

Editor's Note — Laws of 2013, ch. 538, § 1, provides:

"SECTION 1. This act shall be known and may be cited as the 'Mississippi Energy Sustainability and Development Act.'"

Amendment Notes — The 2013 amendment rewrote the section.

§ 57-39-21. Energy efficiency standards for buildings [Repealed effective July 1, 2016].

(1) The board, in consultation with other appropriate professional groups and organizations, and others knowledgeable in the subject, shall review, amend and adopt, in accordance with Standard 90.1-2010 of the American Society of Heating, Refrigeration and Air-Conditioning Engineers, energy code standards for building construction, standards for computer-based energy management systems, standards for systems for cogeneration of heating, cooling and electricity, and standards for design to use passive solar energy concepts, in order to promote the efficient use of energy. For the purposes of this section, "building" shall mean any structure which includes provisions for a heating or cooling system, or both, or for a hot water system, except exempted buildings. Unless it is an exempted building, each of the following are examples of buildings, within the meaning of this section:

(a) Any building which provides facilities or shelter for public assembly, or which is used for educational, office or institutional purposes;

(b) Any inn, hotel, motel, sports arena, supermarket, transportation terminal, retail store, restaurant or other commercial establishment which provides service or retail merchandise;

(c) Any portion of an industrial plant building used primarily as office space; and

(d) Any building owned by a state or political subdivision or instrumentality thereof, including libraries, museums, schools, hospitals, auditoriums, sports arenas and university buildings.

(2) Exempt buildings shall include:

(a) Buildings and structures or portions thereof whose peak design rate of energy usage is less than three and four-tenths (3.4) British thermal units per hour per square foot or one (1.0) watt per square foot of floor area for all purposes;

(b) Buildings and structures or portions thereof which are neither heated nor cooled by fuel;

(c) Any mobile home;

(d) Any privately owned, noncommercial building or structure whose construction, heating, cooling or lighting arrangement is not in conflict with federal law;

(e) Any building owned or leased, in whole or in part, by the United States Government.

(3) Beginning July 1, 2013, the design, direction, construction and alteration of any building for which the standards promulgated pursuant to subsection (1) of this section applies shall be accomplished so that the building or applicable portions thereof shall meet or conform to the standards. The board shall not have enforcement over this section. Local governing authorities shall adopt rules and regulations for the administration and enforcement of this section, and to adopt such penalties for violation of this section as they deem appropriate, except in regard to buildings owned by the state. In state-owned buildings, the building commission shall provide for the compliance with the standards adopted under this chapter. Local governing authorities are authorized to adopt rules and regulations as developed and promulgated by the commission for the administration and enforcement of these standards and to adopt such penalties for violations of the standards as they deem appropriate. Local governing authorities are authorized to establish an inspection fee for the inspection of thermal and lighting standards in an amount not to exceed One Hundred Fifty Dollars ($150.00).

(4) This section shall stand repealed from and after July 1, 2016.

SOURCES: Laws, 1980, ch. 548, § 11; Laws, 2013, ch. 536, § 1, eff from and after July 1, 2013.

Editor's Note — Section 31-11-1 provides that the term "State Building Commission" or "Building Commission" wherever it appears in the laws of Mississippi shall be construed to mean the Governor's Office of General Services.

Amendment Notes — The 2013 amendment in (1), substituted "review, amend and adopt, in accordance with Standard 90.1-2010 of the American Society of Heating, Refrigeration and Air-Conditioning Engineers, energy code standards for building construction" for "develop and promulgate in accordance with Title III of Public Law 94-163 and Title III of Public Law 94-385 of the Ninety-fourth Congress, thermal and lighting efficiency standards," deleted the former second sentence which read: "The standards shall apply to all buildings as required by subsections (4) and (5) of this section"; deleted former (3) through (5); redesignated former (6) as (3), and therein, substituted "2013" for "1980" in the first sentence, added the second sentence, and substituted "One Hundred Fifty Dollars ($150.00)" for "fifty dollars" in the last sentence; added (4); and made stylistic changes.

Cross References — Energy management plan for state-owned or state-leased buildings, see §§ 57-39-101 et seq.

Federal Aspects — Title III of Public Law 94-163 is codified principally as 42 USCS §§ 6261 et seq.

Title IV of Public Law 94-385 is codified principally as 42 USCS §§ 6801 et seq.

§§ 57-39-23 through 57-39-35. Repealed.

Repealed by Laws of 2013, ch. 538, §§ 11 through 17, effective from and after July 1, 2013.

§ 57-39-23. [Laws, 1980, ch. 548, § 12, eff from and after passage (approved May 26, 1980).]

§ 57-39-25. [Laws, 1980, ch. 548, § 13, eff from and after passage (approved May 26, 1980).]

§ 57-39-27. [Laws, 1980, ch. 548, § 14, eff from and after passage (approved May 26, 1980).]

§ 57-39-29. [Laws, 1980, ch. 548, § 15, eff from and after passage (approved May 26, 1980).]

§ 57-39-31. [Laws, 1980, ch. 548, § 16, eff from and after passage (approved May 26, 1980).]

§ 57-39-33. [Laws, 1980, ch. 548, § 17, eff from and after passage (approved May 26, 1980).]

§ 57-39-35. [Laws, 1980, ch. 548, § 18, eff from and after passage (approved May 26, 1980).]

Editor's Note — Former § 57-39-23 provided limitations on disclosure of proprietary information.

Former § 57-39-25 provided penalties for failure to submit certain information or submission of false information.

Former § 57-39-27 required the board to prescribe policies as to energy efficiency and allocation of petroleum products.

Former § 57-39-29 designated the board as the State Office of Petroleum Allocation.

Former § 57-39-31 related to the administration of the state set-aside program by the board.

Former § 57-39-33 provided that the board had the sole authority to establish priorities among users and consumers of allocated products.

Former § 57-39-35 prohibited the establishment of priorities by local governments or suppliers without board approval.

§ 57-39-37. Repealed.

Repealed by Laws, 1992, ch. 496, § 56, eff from and after July 1, 1992.

[Laws, 1980, ch. 548, § 20, eff from and after passage (approved May 26, 1980)]

Editor's Note — Former § 57-39-37 provided for transfer of records, property and funds from other agencies to the Energy and Transportation Board.

§ 57-39-39. Energy Development Fund.

(1) There is hereby created in the State Treasury a fund to be known as the Energy Development Fund. Monies in such fund are reserved exclusively for:

(a) Promoting the development of Mississippi's energy resources.

(b) Developing projects under this section which will demonstrate a realistic promise of making a significant energy contribution to the State of Mississippi.

(c) Effectively utilizing the state's existing alternative and conventional energy resources to foster economic and social improvements in the state.

(2) The division will administer the fund. The division will establish policy and guidelines for use of the fund not later than one hundred twenty (120) days after July 1, 2013.

(3) The division will submit to the Governor on or before December 31 of each year a comprehensive report on the operation of the fund.

SOURCES: Laws, 1983, ch. 440, § 1; Laws, 1988, ch. 518, § 62; Laws, 1992, ch. 496, § 42; Laws, 2013, ch. 538, § 6, eff from and after July 1, 2013.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error at the beginning of (3) by substituting "The division" for "The department." The Joint Committee ratified this correction at its August 1, 2013, meeting.

Editor's Note — Former § 57-39-3 transferred all the functions of the Mississippi Energy and Transportation Board to the Mississippi Department of Economic and Community Development.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Laws of 1983, ch. 440, § 2, effective from and after July 1, 1983, provides as follows:

"SECTION 2. It is the intent of the Legislature that no state appropriated general fund monies be deposited in or exempted from the Energy Development Fund."

Laws of 2013, ch. 538, § 1, provides:

"SECTION 1. This act shall be known and may be cited as the 'Mississippi Energy Sustainability and Development Act.'"

Amendment Notes — The 2013 amendment rewrote the section.

Cross References — University Research Center, see §§ 37-141-1 et seq.

§ 57-39-41. Repealed.

Repealed by Laws of 2013, ch. 538, § 18, effective from and after July 1, 2013.

§ 57-39-41. [Laws, 1986, ch. 500, § 1; Laws, 1992, ch. 496, § 43, eff from and after July 1, 1992.]

Editor's Note — Former § 57-39-41 required the board to prepare a plan for establishing a central motor pool.

§ 57-39-43. Mississippi oil overcharge fund established.

(1) There is created in the State Treasury a fund to be designated as the "Mississippi Oil Overcharge Fund," referred to in this section as "fund." Monies

in the fund, referred to in this section as "oil overcharge funds," may be used for projects or programs authorized in accordance with appropriate federal court orders regarding the use of oil overcharge funds or by the United States Department of Energy, or both.

(2) The Treasurer shall deposit or transfer into the fund any funds received as a result of federal statute or administrative or regulatory actions requiring the disbursement to states of refund monies for alleged overcharges for crude oil or refined petroleum products. The Treasurer may establish accounts within the fund as necessary for management of monies in the fund.

(3) Expenditures may be made from the fund upon requisition to the Treasurer by the Executive Director of the Department of Economic and Community Development or the Executive Director of the Department of Human Services.

(4) The fund shall be treated as a special trust fund. Interest earned on the principal in the fund shall be credited by the Treasurer to the fund.

(5) In their annual budget request, the Department of Economic and Community Development and the Department of Human Services shall submit a list of projects or programs for which monies from the fund are requested to be used.

SOURCES: Laws, 1998, ch. 593, § 12, eff from and after July 1, 1998.

§ 57-39-45. Compilation, analysis and dissemination of data for the purpose of maximizing Mississippi's energy resources.

(1) The division shall be responsible for compiling on an ongoing basis data related to the energy resources, both natural and manmade, of the State of Mississippi. This information shall be compiled from trusted and verified sources for the purposes of aggregation for analysis and dissemination to partners and the public with the intent to maximize the energy resources of the state.

(2) **Biomass resources.** The division shall be responsible for maintaining a current database and map of biomass feedstocks found in the State of Mississippi. The division shall work with the Mississippi Forestry Commission, the Department of Agriculture, the institutions of higher learning, and other knowledgeable partners to produce and maintain accurate data on the renewable biomass resources of the state. The division shall analyze the data and prepare reports on a regular basis in order to highlight and promote the biomass resources of the state.

(3) **Energy infrastructure.** The division shall be responsible for maintaining a current database and map of the infrastructure that transports energy fuels and products across the state. The division shall analyze the data and prepare reports on a regular basis in order to highlight and promote the energy infrastructure of the state.

(4) **Energy production and reserves.** The division shall be responsible for maintaining information from all readily available resources on the energy

production capacity in the state. The division shall maintain information on the energy reserves of the state.

(5) **Reports and publications.** The division shall produce reports, white papers, or articles for placement in targeted publications that include information to promote Mississippi as a leader in the energy sector.

SOURCES: Laws, 2013, ch. 538, § 8, eff from and after July 1, 2013.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error near the beginning of (1) by inserting "on" preceding "an ongoing basis." The Joint Committee ratified this correction at its August 1, 2013, meeting.

ARTICLE 3.

ENERGY MANAGEMENT LAW OF 1981.

Sec.

57-39-101. Short title.
57-39-103. Purpose.
57-39-105 and 57-39-107. Repealed
57-39-109. Agency and public school district coordinators.
57-39-111. Repealed.
57-39-112. Assisting school districts in reducing energy consumption.
57-39-113 and 57-39-115. Repealed

§ 57-39-101. Short title.

Sections 57-39-101 through 57-39-115 may be cited as the "Mississippi Energy Management Law."

SOURCES: Laws, 1981, ch. 420, § 1; reenacted, Laws, 1983, ch. 540, § 1; Laws, 1998, ch. 593, § 3, eff from and after July 1, 1998.

Cross References — Public contracts for energy efficiency services, see § 31-7-14.
Energy efficiency standards for buildings, see § 57-39-21.
Mississippi Urban Research Center, see § 57-55-17.

ATTORNEY GENERAL OPINIONS

Community and junior colleges are not "agencies" for purposes of Senate Bill 3113 (Laws, 1998, ch. 593), and this legislation does not require local community and junior colleges to prepare detailed energy management plans and undertake energy efficiency projects. Ray, January 15, 1999, A.G. Op. #98-0767.

§ 57-39-103. Purpose.

The purpose of Sections 57-39-103 through 57-39-115 is to provide for development and implementation of a state energy management plan for all state-owned or state-leased buildings and facilities which will minimize energy consumption and insure that buildings and facilities are operated with maximum efficiency of energy use.

SOURCES: Laws, 1981, ch. 420, § 2; reenacted and amended, Laws, 1983, ch. 540, § 2; Laws, 1998, ch. 593, § 4, eff from and after July 1, 1998.

Cross References — Powers and duties of boards of trustees of school districts with respect to school property, see § 37-7-301.

Energy efficiency standards for buildings, see § 57-39-21.

§§ 57-39-105 and 57-39-107. Repealed.

Repealed by Laws of 2013, ch. 538, §§ 19 and 20, effective from and after July 1, 2013.

§ 57-39-105. [Laws, 1981, ch. 420, § 3; reenacted and amended, Laws, 1983, ch. 540, § 3; Laws, 1984, ch. 488, § 244; Laws, 1992, ch. 496, § 44; Laws, 1998, ch. 593, § 5, eff from and after July 1, 1998.]

§ 57-39-107. [Laws, 1981, ch. 420, § 4; reenacted, Laws, 1983, ch. 540, § 4; Laws, 1998, ch. 593, § 6, eff from and after July 1, 1998.]

Editor's Note — Former § 57-39-105 required the department of economic and community development to develop and implement a general energy management plan.

Former § 57-39-107 required the department of finance and administration to submit data regarding energy consumption.

§ 57-39-109. Agency and public school district coordinators.

Any agency or institution designated by the division and funded in whole or in part by public funds shall appoint a coordinator from existing staff who shall advise the agency head or institution head on energy-related matters. The coordinator shall confer and cooperate with the board in developing, implementing and evaluating an energy management plan for the agency or institution. Any public school district may appoint a coordinator from its existing staff.

SOURCES: Laws, 1981, ch. 420, § 5; reenacted and amended, Laws, 1983, ch. 540, § 5; Laws, 1998, ch. 593, § 7, eff from and after July 1, 1998.

Cross References — Use of data submitted under this section in formulating energy savings incentive program for state agencies, see § 31-7-14.1.

Energy efficiency standards for buildings, see § 57-39-21.

§ 57-39-111. Repealed.

Repealed by Laws of 2013, ch. 538, § 21, effective from and after July 1, 2013.

§ 57-39-111. [Laws, 1981, ch. 420, § 6; reenacted and amended, Laws, 1983, ch. 540, § 6; Laws, 1984, ch. 488, § 245; Laws, 1998, ch. 593, § 8; Laws, 2010, ch. 514, § 1, eff from and after July 1, 2010.]

Editor's Note — Former § 57-39-111 required state agencies to submit energy management plans to the Mississippi Development Authority.

§ 57-39-112. Assisting school districts in reducing energy consumption.

The division shall provide technical assistance to the Mississippi Department of Education so that the department can assist local school districts in developing a detailed energy management plan for that public school district. The purposes of the plan shall be to assist the public school district in reducing consumption of energy in its buildings and facilities and to maintain or reduce that level of energy consumption, subject to any allowances for building and facilities modernization, remodeling or upgrading for educational purposes, and for increased or decreased enrollment.

SOURCES: Laws, 1983, ch. 540, § 7; Laws, 1998, ch. 593, § 9; Laws, 2013, ch. 538, § 7, eff from and after July 1, 2013.

Editor's Note — Laws of 2013, ch. 538, § 1, provides:

"SECTION 1. This act shall be known and may be cited as the 'Mississippi Energy Sustainability and Development Act.'"

Amendment Notes — The 2013 amendment substituted "provide technical assistance to the Mississippi Department of Education so that the department can assist local school districts" for "cooperate with all public school districts of the state which request its assistance and cooperation" in the first sentence; in the second sentence, deleted "reaching a goal of" preceding "reducing consumption," and deleted "by energy unit measure in fiscal year 2003 by a minimum of fifteen percent (15%) as compared with fiscal year 2001" following "of energy in its buildings and facilities."

Cross References — Powers and duties of boards of trustees of school districts with respect to school property, see § 37-7-301.

Energy efficiency standards for buildings, see § 57-39-21.

§§ 57-39-113 and 57-39-115. Repealed.

Repealed by Laws of 2013, ch. 538, §§ 22 and 23, effective from and after July 1, 2013.

§ 57-39-113. [Laws, 1981, ch. 420, § 7; reenacted and amended, Laws, 1983, ch. 540, § 8; Laws, 1998, ch. 593, § 10, eff from and after July 1, 1998.]

§ 57-39-115. [Laws, 1981, ch. 420, § 8; reenacted and amended, Laws, 1983, ch. 540, § 9; Laws, 1998, ch. 593, § 11, eff from and after July 1, 1998.]

Editor's Note — Former § 57-39-113 allowed smaller percentage reduction goals for qualifying agencies and institutions.

Former § 57-39-115 required the division to report annually on energy reduction programs.

ARTICLE 5.

SCHOOL ENERGY CONSERVATION PROGRAM.

SEC.
57-39-201 through 57-39-205. Repealed

§§ 57-39-201 through 57-39-205. Repealed.

Repealed by Laws of 2013, ch. 538, §§ 24 through 26, effective from and after July 1, 2013.

§ 57-39-201. [Laws, 1984, ch. 463, § 1; Laws, 1992, ch. 496, § 45, eff from and after July 1, 1992.]

§ 57-39-203. [Laws, 1984, ch. 463, § 2; Laws, 1992, ch. 496, § 46; Laws, 2000, ch. 503, § 2, eff from and after July 1, 2000.]

§ 57-39-205. [Laws, 1984, ch. 463, § 3; Laws, 1992, ch. 496, § 47, eff from and after July 1, 1992.]

Editor's Note — Former § 57-39-201 authorized loans for school energy conservation programs.

Former § 57-39-203 related to the process for approval of loans and repayment.

Former § 57-39-205 allowed for the forfeiture of a homestead exemption in the case of a loan default.

CHAPTER 40

Energy Infrastructure Revolving Loan Program

Sec.
57-40-1. Definitions.
57-40-3. Energy infrastructure revolving loan program established; purpose.
57-40-5. Energy Infrastructure Revolving Loan Fund created; application by county or incorporated municipality; repayment; audit of receipts and expenditures.
57-40-7. Powers and duties of Mississippi Development Authority in administering this chapter.

§ 57-40-1. Definitions.

As used in this chapter:

(a) "Project" means a facility constructed after July 1, 2012, with a capital investment from private sources of not less than Fifty Million Dollars ($50,000,000.00).

(b) "MDA" means the Mississippi Development Authority.

SOURCES: Laws, 2009, ch. 557, § 36; Laws, 2013, ch. 534, § 1, eff from and after July 1, 2013.

Editor's Note — Laws of 2009, ch. 557, § 57, provides:

"SECTION 57. No proceeds from these bonds may be used to pay, compensate or fund any lobbyist or government affairs individual(s) registered with the Secretary of State of Mississippi."

Amendment Notes — The 2013 amendment deleted the "(1)" designator at the beginning; in (a), substituted "July 1, 2012" for "April 17, 2009", "Fifty Million ($50,000,000.00)" for "One Billion Dollars ($1,000,000,000.00)," and deleted "that converts Mississippi feedstock to any form of energy that is produced for resale" following "July 1, 2012."

Cross References — For authority of MDA to declare necessity for issuance of general obligation bonds to provide funds for the program authorized in this chapter, see Section 40 of Chapter 557, Laws of 2009.

§ 57-40-3. Energy infrastructure revolving loan program established; purpose.

There is established an energy infrastructure revolving loan program to be administered by the MDA for the purpose of assisting counties and municipalities in:

(a) Constructing, repairing or improving infrastructure related to a project, including, but not limited to, making a contribution in aid of construction to an energy-providing utility or cooperative for its constructing, repairing, improving and owning such infrastructure;

(b) Site preparation related to a project on property owned by a county or municipality; and

(c) Site preparation on property owned by the enterprise owning or operating a project.

SOURCES: Laws, 2009, ch. 557, § 37; Laws, 2013, ch. 534, § 2, eff from and after July 1, 2013.

Editor's Note — Laws of 2009, ch. 557, § 57, provides:

"SECTION 57. No proceeds from these bonds may be used to pay, compensate or fund any lobbyist or government affairs individual(s) registered with the Secretary of State of Mississippi."

Amendment Notes — The 2013 amendment added "including, but not limited to, making a contribution in aid of construction to an energy-providing utility or cooperative for its constructing, repairing, improving and owning such infrastructure" in (a).

Cross References — For authority of MDA to declare necessity for issuance of general obligation bonds to provide funds for the program authorized in this chapter, see Section 40 of Chapter 557, Laws of 2009.

§ 57-40-5. Energy Infrastructure Revolving Loan Fund created; application by county or incorporated municipality; repayment; audit of receipts and expenditures.

(1) There is created a special fund in the State Treasury to be designated as the "Energy Infrastructure Revolving Loan Fund," which shall consist of such money authorized to be deposited into such fund from any source. The fund shall be maintained in perpetuity for the purposes established in this chapter. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited to the credit of the fund. Money in the fund may not be used or expended for any purpose except as authorized under this chapter.

(2) A county or an incorporated municipality may apply to the MDA for a loan under the energy infrastructure revolving loan program established under this chapter.

(3)(a) The MDA shall establish a loan program by which loans, at the rate of interest set by the MDA, may be made available to counties and incorporated municipalities for the purposes provided in Section 57-40-3.

(b) Loans from the revolving fund may be made to counties and municipalities as set forth in a loan agreement in amounts not to exceed one hundred percent (100%) of eligible costs as established by the MDA. The MDA may require county, municipal or private participation or funding from other sources, or otherwise limit the percentage of costs covered by loans from the revolving loan fund. The MDA may establish a maximum amount for any loan. Loan repayments shall be deposited into the revolving loan fund.

(4) A county that receives a loan from the revolving fund shall pledge for repayment of the loan any part of the homestead exemption annual tax loss reimbursement to which it may be entitled under Section 27-33-77. An incorporated municipality that receives a loan from the revolving fund shall pledge for repayment of the loan any part of the sales tax revenue distribution to which it may be entitled under Section 27-65-75. Each loan agreement shall provide for (i) monthly payments, (ii) semiannual payments, or (iii) other

periodic payments. The loan agreement shall provide for the repayment of all funds received within not more than twenty (20) years from the date of project completion.

(5) Prior to the execution of a loan agreement, relevant parties to the project shall enter into an agreement, in a manner acceptable to MDA, that stipulates the terms of the energy infrastructure investment and responsibilities among parties.

(6) The State Auditor, upon request of the MDA, shall audit the receipts and expenditures of a county or an incorporated municipality whose loan payments appear to be in arrears, and if he finds that the entity is in arrears in such payments, he shall immediately notify the Executive Director of the Department of Finance and Administration who shall withhold all future payments to the county of homestead exemption reimbursements under Section 27-33-77 and all sums allocated to the county or the municipality under Section 27-65-75 until such time as the county or the municipality is again current in its loan payments as certified by the MDA.

(7) Evidences of indebtedness which are issued pursuant to this chapter shall not be deemed indebtedness within the meaning specified in Section 21-33-303 with regard to cities or incorporated towns, and in Section 19-9-5 with regard to counties.

SOURCES: Laws, 2009, ch. 557, § 38; Laws, 2013, ch. 534, § 3, eff from and after July 1, 2013.

Editor's Note — Laws of 2009, ch. 557, § 57, provides:

"SECTION 57. No proceeds from these bonds may be used to pay, compensate or fund any lobbyist or government affairs individual(s) registered with the Secretary of State of Mississippi."

Amendment Notes — The 2013 amendment rewrote (3)(a); substituted "municipal or private" for "or municipal" in (3)(b); added (5) and redesignated (5) and (6) as (6) and (7); substituted "entity is in arrears" for "county or municipality is in arrears" in (6); and made minor stylistic changes.

Cross References — For authority of MDA to declare necessity for issuance of general obligation bonds to provide funds for the program authorized in this chapter, see Section 40 of Chapter 557, Laws of 2009.

§ 57-40-7. Powers and duties of Mississippi Development Authority in administering this chapter.

In administering the provisions of this chapter, the MDA shall have the following powers and duties:

(a) To supervise the use of all funds made available under this chapter for infrastructure improvements;

(b) To review and certify all projects for which funds are authorized to be made available under this chapter;

(c) To requisition money in the Energy Infrastructure Revolving Loan Fund and distribute that money on a project-by-project basis in accordance with the provisions of this chapter;

(d) To maintain an accurate record of all energy infrastructure revolving loan program funds made available to counties and municipalities and the costs for each project; and

(e) To adopt and promulgate such rules and regulations as may be necessary or desirable for the purpose of implementing the provisions of this chapter.

SOURCES: Laws, 2009, ch. 557, § 39; Laws, 2013, ch. 534, § 4, eff from and after July 1, 2013.

Editor's Note — Laws of 2009, ch. 557, § 57, provides:

"SECTION 57. No proceeds from these bonds may be used to pay, compensate or fund any lobbyist or government affairs individual(s) registered with the Secretary of State of Mississippi."

Amendment Notes — The 2013 amendment deleted "local governments" preceding "infrastructure improvements" in (a).

Cross References — For authority of MDA to declare necessity for issuance of general obligation bonds to provide funds for the program authorized in this chapter, see Section 40 of Chapter 557, Laws of 2009.

CHAPTER 41

Financing Industrial Enterprise Projects

Sec.
57-41-1. Definitions.
57-41-3. General powers of governing bodies.
57-41-5. Issuance, terms and conditions of notes; validation of bonds.
57-41-7. Security for notes.
57-41-9. Sources for payment of notes; liability of municipality; negotiability of notes.
57-41-11. Investment in notes.
57-41-13. Exemption from taxation of notes; limitations on exemption of industrial enterprises from taxation.
57-41-15. Construction of chapter.
57-41-17. Adoption of rules and regulations.

§ 57-41-1. Definitions.

Wherever used in this chapter, unless a different meaning clearly appears in the context, the following terms, whether used in the singular or plural, shall be given the following respective interpretations:

(a) "Municipality" means any county or incorporated city, town or village in the State of Mississippi;

(b) "Project" means land, buildings, improvements, fixtures, machinery, equipment and furnishings, and all real and personal properties deemed necessary in connection therewith, or any part or combination of parts of the foregoing, whether or not now in existence, which shall be suitable for use by any industrial enterprise;

(c) "Industrial enterprise" means a person, corporation, partnership or other legal entity authorized by law to engage in the business of manufacturing, processing or assembling any products of agriculture, mining or industry, excluding retail businesses;

(d) "Governing body" means the board or body in which the legislative powers of the municipality are vested;

(e) "Mortgage" means a mortgage, indenture of trust, deed of trust or any other instrument securing notes of an industrial enterprise;

(f) "Loan agreement" means an agreement providing for the governing body to loan the proceeds derived from the issuance of notes pursuant to this chapter to one or more industrial enterprises to be used to pay the cost of one or more projects and providing for the repayment of such loans by the industrial enterprises, and which shall provide for such loans to be evidenced by one or more notes, and secured by a mortgage delivered to the municipality or to the assignee of the municipality's rights under the loan agreement.

SOURCES: Laws, 1981, ch. 463, § 1, eff from and after July 1, 1981.

Cross References — Establishment of municipal industrial enterprises generally, see §§ 57-1-19 et seq., 57-1-71 et seq., 57-1-101 et seq., 57-1-131 et seq., 57-1-171 et seq.

§ 57-41-3. General powers of governing bodies.

The governing body is hereby granted the following powers, together with all powers incidental thereto or necessary for the performance of those hereinafter stated, in order to effectuate the purposes of this chapter:

(a) To enter into loan agreements with an industrial enterprise with respect to one or more projects for such payments and upon such terms and conditions as the governing body may deem advisable in accordance with the provisions of this chapter;

(b) To borrow money and issue its notes for the purpose of making loans to industrial enterprises to finance one or more projects; however, no loan shall exceed five hundred thousand dollars ($500,000.00) for any one (1) project;

(c) As security for the payment of the principal of and interest on any notes so issued, to assign and pledge all or any part of its interest in and rights under the loan agreements relating thereto to financial institutions purchasing the notes, together with all notes and deeds of trust delivered to the municipality pursuant thereto.

The powers conferred upon the governing body of a municipality under this chapter may be exercised only after the governing body has obtained a certificate of public convenience and necessity from the Mississippi Board of Economic Development for each project of an industrial enterprise.

SOURCES: Laws, 1981, ch. 463, § 2, eff from and after July 1, 1981.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Certificate of public convenience and necessity for industrial enterprises, see §§ 57-1-19, 57-1-21, 57-1-101, 57-1-131, 57-1-173.

§ 57-41-5. Issuance, terms and conditions of notes; validation of bonds.

The principal of, redemption premium, if any, and interest on the notes of the municipality shall be payable solely out of, and shall be secured by a pledge of the revenues and receipts derived from the industrial enterprise as designated in the proceedings of the governing body under which the notes shall be authorized to be issued, including debt obligations of the industrial enterprises obtained from or in connection with the financing of a project, and from such other sources available to the municipality as may be designated by the governing body in its proceedings in connection with the issuance of the notes. Such notes may be executed and delivered by the governing body at any time and from time to time, may be in such form and denominations, may be subject to such terms of redemption, may mature at such time or times not exceeding ten (10) years; and may be in fully registered form or in bearer form registrable either as to principal or interest or both, may bear such conversion privileges and be payable in such installments and at such time or times, may be payable at such place or places, whether within or without the State of Mississippi, may bear interest irrespective of any interest rate limitation, payable at such time or times, and at such place or places and evidenced in such manner, and may contain such provisions not inconsistent herewith, all as shall be provided in the proceedings of the governing body whereunder the notes shall be authorized to be issued.

Any notes of the governing body may be sold at public or private sale. The governing body may pay all expenses, premiums and commissions which its governing body may deem necessary or advantageous in connection with the issuance thereof, but solely from the proceeds of the notes. Bonds issued hereunder shall be validated in the manner provided by law in the chancery court of the county in which the municipality is located.

SOURCES: Laws, 1981, ch. 463, § 3; Laws, 1982, ch. 453, § 2; Laws, 1983, ch. 541, § 33; Laws, 1984, ch. 506, § 11, eff from and after passage (approved May 15, 1984).

Cross References — Validation of public bonds generally, see §§ 31-13-1 et seq.

Issuance of municipal bonds to finance industrial enterprises, see §§ 57-1-29, 57-1-75, 57-1-103, 57-1-139, 57-1-175.

§ 57-41-7. Security for notes.

(1) The notes may be secured by a trust agreement by and between the municipality and a corporate trustee, which may be any trust company or bank incorporated under the laws of the United States or the laws of any state in the United States. Any such trust agreement may pledge or assign income, contract payments, fees or any other revenues and receipts to be received from an industrial enterprise, whether or not related to a project. The notes may be additionally secured by an assignment of a mortgage, deed of trust or other security interest upon all or any part of one or more projects, including any enlargements of and additions to a project, vesting in the trustee power to sell such project for the payment of indebtedness, power to operate a project and all other powers and authority and for the further security of the notes.

(2) Any trust agreement made in accordance with the provisions of this chapter may contain a provision that, in the event of a default in the payment of the principal of, redemption premium, if any, or the interest on the notes issued in accordance with, or relating to, such agreement, or in the performance of any agreement contained in the proceedings, trust agreement or instruments relating to such notes, such payment and performance may be enforced by mandamus or by the appointment of a receiver in equity with power to charge and collect rates, rents or payments and to apply the revenues from the project in accordance with such proceedings, trust agreement or instruments.

(3) Any mortgage or deed of trust to secure notes issued in accordance with the provisions of this chapter may also provide that in the event of a

default in the payment thereof or the violation of any agreement contained in the mortgage or deed of trust, the property secured by the mortgage or deed of trust may be foreclosed and sold under proceedings in equity or in any other manner now or hereafter permitted by law. Such mortgage or deed of trust may also provide that any trustee under such mortgage or deed of trust or the holder of any of the notes secured thereby, may become the purchaser at any foreclosure sale if it is the highest bidder therefor.

(4) The notes may be additionally secured by a guaranty agreement from an industrial enterprise to the trustee or to the holder of any note or by such other guaranty agreement, letter of credit or other arrangement as shall be acceptable to the municipality.

SOURCES: Laws, 1981, ch. 463, § 4, eff from and after July 1, 1981.

Cross References — Issuance of municipal bonds to finance industrial enterprises, see §§ 57-1-29, 57-1-75, 57-1-103, 57-1-139, 57-1-175.

§ 57-41-9. Sources for payment of notes; liability of municipality; negotiability of notes.

All notes issued by a municipality under authority of this chapter shall be limited obligations of the municipality, the principal of, redemption premium, if any, and interest on which shall be payable solely from revenues received by the municipality pursuant to the loan agreement or pursuant to notes and deeds of trust delivered to the municipality and from such other funds as may be made available to the municipality for such purpose by the terms of the trust agreement. Notes issued under authority of this chapter shall never constitute an indebtedness of the municipality within the meaning of any state constitutional provision or statutory limitation, and shall never constitute nor give rise to a pecuniary liability of the municipality or a charge against its general credit or taxing powers, and such fact shall be plainly stated on the face of each such note. The notes shall not be considered when computing any limitation of indebtedness of the municipality established by law. All notes issued under the authority of this chapter shall be construed to be negotiable instruments, despite the fact that they are payable solely from a specified source.

SOURCES: Laws, 1981, ch. 463, § 5, eff from and after July 1, 1981.

Cross References — Issuance of municipal bonds to finance industrial enterprises, see §§ 57-1-29, 57-1-75, 57-1-103, 57-1-139, 57-1-175.

Negotiable instruments generally, see § 75-3-101 et seq.

§ 57-41-11. Investment in notes.

Notes issued under the provisions of this chapter shall be legal investments for commercial banks, savings and loan associations and insurance companies organized under the laws of this state.

SOURCES: Laws, 1981, ch. 463, § 6, eff from and after July 1, 1981.

Cross References — Negotiable instruments generally, see §§ 75-3-101 et seq.
Investments by domestic insurance companies, see § 83-19-51.

§ 57-41-13. Exemption from taxation of notes; limitations on exemption of industrial enterprises from taxation.

The notes authorized by this chapter and the income therefrom shall be exempt from all taxation in the State of Mississippi, and the revenue derived by the issuer from the project shall be exempt from all taxation in the State of Mississippi. Any industrial enterprise shall not be exempt from ad valorem taxes on the project, except as is otherwise provided in Section 27-31-101 et seq., Mississippi Code of 1972, nor shall purchases required to establish projects and financed by note proceeds be exempt from taxation in the State of Mississippi.

SOURCES: Laws, 1981, ch. 463, § 7, eff from and after July 1, 1981.

Cross References — Establishment of municipal industrial enterprises generally, see §§ 57-1-19 et seq., 57-1-71 et seq., 57-1-101 et seq., 57-1-131 et seq., 57-1-171 et seq.
Exemption of municipal industrial enterprises from taxation, see § 57-1-47.

§ 57-41-15. Construction of chapter.

This chapter, without reference to any other statute, shall be deemed to be full and complete authority for the issuance of the aforesaid notes, and shall be construed as an additional and alternative method therefor, and none of the present restrictions, requirements, conditions or limitations of law applicable to the issuance or sale of bonds, notes or other obligations by municipalities in this state shall apply to the issuance and sale of notes under this chapter, and no proceedings shall be required for the issuance of such notes other than those provided for and required herein, and all powers necessary to be exercised in order to carry out the provisions of this chapter are hereby conferred.

SOURCES: Laws, 1981, ch. 463, § 8, eff from and after July 1, 1981.

Cross References — Establishment of municipal industrial enterprises, generally, see §§ 57-1-19 et seq., 57-1-71 et seq., 57-1-101 et seq., 57-1-131 et seq., 57-1-171 et seq.
Issuance of municipal bonds to finance industrial enterprises, see §§ 57-1-29, 57-1-75, 57-1-103, 57-1-139, 57-1-175.

§ 57-41-17. Adoption of rules and regulations.

The Mississippi Board of Economic Development is authorized and empowered to adopt and put into effect all reasonable rules and regulations that it may deem necessary to carry out the provisions of this chapter not inconsistent therewith, including, but not limited to, eligible costs of a project and the financing thereof.

SOURCES: Laws, 1981, ch. 463, § 9, eff from and after July 1, 1981.

Editor's Note — Section 57-1-2 provides that "Department of Economic Development" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

CHAPTER 43

Railroad Revitalization

Sec.
57-43-1. Establishment of Railroad Revitalization Fund; development of comprehensive state rail plan; plan to include distinct freight and passenger components; periodic update of plan; deposits and expenditures.
57-43-3. Agreements to carry out railroad revitalization.
57-43-5. Acceptance of federal grants; grants from fund.
57-43-7. Terms of agreements between Department and railroad corporations.
57-43-9. County or municipal appropriations to fund; use of such moneys.
57-43-11. Agreements to jointly fund rehabilitation or improvement; loans to make up local share.
57-43-13. Repealed.
57-43-15. Mississippi Highway-Railroad Grade Crossing Safety Account.

§ 57-43-1. Establishment of Railroad Revitalization Fund; development of comprehensive state rail plan; plan to include distinct freight and passenger components; periodic update of plan; deposits and expenditures.

(1) There is established in the State Treasury a revolving fund to be designated as the "Railroad Revitalization Fund." Monies (including interest earnings) in this fund shall be expended either separately or in combination with any available federal funds for railroad research, railroad planning and railroad administration costs incurred by the Mississippi Department of Transportation directly attributable to railroad revitalization projects; assistance to railroads for the rehabilitation or improvement of rail lines; and construction, improvement or rehabilitation of railroad facilities.

(2) The Mississippi Department of Transportation, in consultation with the Mississippi Development Authority, the Southern High-Speed Rail Commission as created in Section 57-45-1 and the railroads operating in the State of Mississippi, shall develop the State Rail Plan, which shall be a comprehensive plan that coordinates all aspects of the rail infrastructure within the state and includes distinct freight and passenger components, and is described as follows:

(a) The passenger component of the State Rail Plan means that part of the plan developed by the Mississippi Department of Transportation, in consultation with the Mississippi Development Authority and the Southern High-Speed Rail Commission and with the railroads operating in the state and in concert with the freight component of the State Rail Plan, that promotes passenger rail travel within the state in a manner that is compatible with opportunities for the state to obtain federal funding assistance that may be available for intercity passenger rail service and/or high-speed rail corridor service, and that contains provisions that include, but are not limited to, the following:

(i) Articulating the ongoing comprehensive vision and objectives associated with promoting passenger rail travel within the state;

(ii) Identifying all viable routes for passenger rail service;

(iii) Enhancing the existing passenger rail segments within the state and constructing additional segments; and

(iv) Providing recommendations to the providers of passenger rail service within the state for complying with federal requirements necessary for the state to qualify for any available federal funding.

(b) The freight component of the State Rail Plan means the plan developed by the Mississippi Department of Transportation, in consultation with the Mississippi Development Authority and the railroads operating in the state and in concert with the passenger component of the State Rail Plan, that promotes freight rail service within the state, including, but not limited to, service to and from water ports in the state and the articulation of the ongoing comprehensive vision and objectives associated with promoting freight rail service within the state.

(3) During fiscal years 2009 and 2010, a total cumulative sum not to exceed Two Hundred Fifty Thousand Dollars ($250,000.00) of the "Railroad Revitalization Fund" shall be used specifically for the purpose of initially developing the State Rail Plan, as described in subsection (2) of this section. After the initial development of the State Rail Plan, the plan shall be updated periodically, not less than every five (5) years.

(4) Except as may be otherwise provided in Section 2 of Chapter 497, Laws of 2009, funds appropriated or otherwise provided by the Legislature for rail line assistance as described in subsections (1) through (3) of this section shall be deposited in the Railroad Revitalization Fund. Any monies received by the Mississippi Department of Transportation by agreements, grants, gifts or other means from individuals, companies or other business entities, municipalities, counties, local railroad authorities or regional railroad authorities or other governmental agencies for the purposes set forth in this chapter, except federal grants made under Section 5 of the Department of Transportation Act, as amended (49 USCS 1654), shall be credited to the Railroad Revitalization Fund. Any interest received from investment of monies in the fund shall be credited to the fund and shall not be deposited into the State General Fund. Use of this fund for the required periodic updates to the State Rail Plan and for railroad research, planning and administration costs incurred by the Mississippi Department of Transportation that are directly attributable to railroad revitalization projects shall be paid from any available funds of the Mississippi Department of Transportation, including those derived from collections from the locomotive fuel tax for the previous year.

SOURCES: Laws, 1981, ch. 470, § 1, reenacted, Laws, 1984, ch. 419, § 1; Laws, 1991, ch. 357 § 1; Laws, 1992, ch. 496, § 48; Laws, 1993, ch. 355, § 1; Laws, 2009, ch. 497, § 5, eff from and after July 1, 2009.

Editor's Note — Laws of 1981, ch. 470, § 7, provided for the repeal of the law establishing the Railroad Revitalization Revolving Fund as of July 1, 1985. Subsequently, Laws of 1984, ch. 419, § 7, repealed Laws of 1981, ch. 470, § 7.

Laws of 2009, ch. 497, § 1 provides:

"SECTION 1. The Legislature finds and determines that:

"(a) There exists in the State of Mississippi a continuing need to construct, improve and invest in rail or railroad infrastructure within the state. A strong rail infrastructure promotes economic development and employment opportunities and promotes the public good and general welfare of the state.

"(b) The public purpose of the provisions of this act is to develop a coordinated program related to rail infrastructure for freight and passenger rail travel within the State of Mississippi, including, but not limited to, the construction of such additional rail lines or tracks as may be necessary or advisable, the maintenance and improvement of the existing rail infrastructure, and the prudent use of state funds to take advantage of any opportunities for federal funding assistance that may be available.

"(c) The issuance of bonds and the borrowing of money for the specific purposes set forth in this act serve the public interest and are vital to the public safety and welfare of the people of Mississippi, and to the economic development of the state."

Cross References — Local and regional railroad authorities, see §§ 19-29-1 et seq.

Transportation planning generally, see §§ 57-39-1 et seq.

Mississippi Transportation Commission to provide for administration of railroad revitalization program pursuant to this section, see § 65-1-8.

Railroads and railroad corporations, see §§ 77-9-101 et seq.

RESEARCH REFERENCES

Am Jur. 65 Am. Jur. 2d, Railroads §§ 29, 30.

CJS. 74 C.J.S., Railroads §§ 90-102.

§ 57-43-3. Agreements to carry out railroad revitalization.

The Executive Director of the Mississippi Department of Transportation, with the approval of the Mississippi Transportation Commission, may enter into agreements with railroads, the United States government, persons, municipalities, counties, local railroad authorities or regional railroad authorities for carrying out the purposes of this chapter. Agreements entered into between the executive director and railroad corporations pursuant to this chapter may require payment by the railroad corporation of a portion of revenue derived from the improved rail line into the Railroad Revitalization Fund and to users who have paid a portion of the cost of the improved line. Any agreement between the executive director and a railroad corporation shall also include a condition that, as a prerequisite to its receipt of any monies available under this chapter, a railroad corporation agrees not to abandon any section of line on which such monies are to be spent until all of the monies expended on such section out of the Railroad Revitalization Fund have been replaced. The board of supervisors of a county and the governing authority of a municipality may enter into an agreement with the Mississippi Department of Transportation to receive a portion of the payments made by a railroad corporation to the Railroad Revitalization Fund pursuant to this chapter. The amount received by a county or municipality shall not exceed the amount appropriated to the Railroad Revitalization Fund by the county or municipality pursuant to this chapter.

SOURCES: Laws, 1981, ch. 470, § 2; reenacted, Laws, 1984, ch. 419, § 2; Laws, 1992, ch. 496, § 49, eff from and after July 1, 1992.

Cross References — Local and regional railroad authorities, see §§ 19-29-1 et seq.

Contracts or leases by railroad authorities in connection with operation of railroad properties and facilities, see § 19-29-23.

Aid and cooperation of political subdivisions with railroad authorities, see § 19-29-43.

Notification and public hearing requirements prior to abandonment of railroad line, see §§ 77-9-521 through 77-9-525.

Railroads and railroad corporations, see §§ 77-9-101 et seq.

RESEARCH REFERENCES

Am Jur. 65 Am. Jur. 2d, Railroads §§ 29, 30.

CJS. 74 C.J.S., Railroads §§ 90-102.

§ 57-43-5. Acceptance of federal grants; grants from fund.

The Mississippi Department of Transportation may accept federal funds to carry out the provisions of this chapter. All federal grants received under provisions of this chapter shall be expended for the purposes set forth in the federal grants. The transportation department, upon a finding that sufficient federal grants for railroad rehabilitation are not available, and with the approval of the State Fiscal Management Board, may make grants to railroad corporations in a total amount not to exceed Two Million Dollars ($2,000,000.00) from the Railroad Revitalization Fund.

SOURCES: Laws, 1981, ch. 470, § 3; reenacted, Laws, 1984, ch. 419, § 3; Laws, 1984, ch. 488, § 246; Laws, 1992, ch. 496, § 50, eff from and after July 1, 1992.

Editor's Note — Section 27-104-1 provides that the term "Fiscal Management Board" shall mean the "Department of Finance and Administration".

Cross References — Local and regional railroad authorities, see §§ 19-29-1 et seq.

Railroads and railroad corporations, see §§ 77-9-101 et seq.

RESEARCH REFERENCES

Am Jur. 65 Am. Jur. 2d, Railroads §§ 29, 30.

CJS. 74 C.J.S., Railroads §§ 90-102.

§ 57-43-7. Terms of agreements between Department and railroad corporations.

Agreements between the railroad corporations and the Mississippi Department of Transportation which do not require payment of a portion of the revenue derived from the improved rail line to be paid by the railroad to the Railroad Revitalization Fund shall require that the railroad establish and maintain a separate railroad corporation fund to which a specified portion of the revenue derived from the improved rail line shall be credited and that these funds shall be used by the railroad for the rehabilitation or improvement of rail lines within the state. The terms and conditions governing the use of monies in the special railroad corporation fund shall be stipulated in the agreement. The agreement shall also stipulate a penalty for use of the funds in a manner other than as set forth in the agreement.

SOURCES: Laws, 1981, ch 470, § 4; reenacted, Laws, 1984, ch. 419, § 4; Laws, 1992, ch. 496, § 51, eff from and after July 1, 1992.

Cross References — Local and regional railroad authorities, see §§ 19-29-1 et seq.
Railroads and railroad corporations, see §§ 77-9-101 et seq.
General corporate powers of railroad corporations, see §§ 77-9-141 et seq.

RESEARCH REFERENCES

Am Jur. 65 Am. Jur. 2d, Railroads §§ 29, 30.
CJS. 74 C.J.S., Railroads §§ 90-102.

§ 57-43-9. County or municipal appropriations to fund; use of such moneys.

The board of supervisors of a county or the governing authority of a municipality may, with the approval of the Mississippi Department of Transportation, appropriate funds from the county or municipal general fund to the Railroad Revitalization Fund. The money shall be used in accordance with this chapter only for rehabilitation or improvement of rail lines within the county from which the county or municipal funds are provided. The county or municipality may, according to the provisions of Section 57-43-3, Mississippi Code of 1972, receive a partial or total reimbursement for this appropriation.

SOURCES: Laws, 1981, ch. 470, § 5; reenacted, Laws, 1984, ch. 419, § 5; Laws, 1992, ch. 496, § 52, eff from and after July 1, 1992.

Cross References — County budgets generally, see §§ 19-11-1 et seq.
Local and regional railroad authorities, see §§ 19-29-1 et seq.
Municipal budgets generally, see §§ 21-35-1 et seq.
Railroads and railroad corporations, see §§ 77-9-101 et seq.

RESEARCH REFERENCES

Am Jur. 65 Am. Jur. 2d, Railroads §§ 29, 30.
CJS. 74 C.J.S., Railroads §§ 90-102.

§ 57-43-11. Agreements to jointly fund rehabilitation or improvement; loans to make up local share.

The Executive Director of the Mississippi Department of Transportation, with the approval of the Mississippi Transportation Commission, may enter into agreements for the purposes of this chapter whereby the state shall provide, from the state portion of the funds available, not more than seventy-five percent (75%) of the amounts necessary to rehabilitate or improve a rail line or segment thereof which has been documented as being viable and cost-effective, provided at least twenty-five percent (25%) of the cost is provided by federal, local, user or railroad funds. The portion to be provided by local governmental agencies may be in the form of a loan from the Railroad Revitalization Fund, with repayment being made by a portion of the revenue derived from the improved line or by a pledge of certain other funds. Any loan shall be made at no interest, provided payments are made in accordance with the agreement. Any portion of a loan outstanding during any delinquency shall bear interest at the legal rate on the entire balance due. In the event that a loan made to a county or municipality has not been repaid or arrangements satisfactory to the Mississippi Transportation Department have not been made to repay the loan within a period of time after same is due and payable, as determined by the department, the department shall determine that there is a default, shall enter an order to that effect upon its official minutes, and send a certified copy of said order by certified mail, postage prepaid, to the chancery clerk or city clerk, as the case may be. If said default is not satisfied in full within thirty (30) days following notification of default by the department, the county or municipality, as the case may be, shall forfeit its right to receive reimbursement for homestead exemption until such time as its indebtedness has been discharged or arrangements to discharge said indebtedness satisfactory to the department have been made. Homestead exemption funds forfeited hereby shall, upon demand by the department made in writing upon the Mississippi State Tax Commission, be paid to the Mississippi Transportation Department and applied to the discharge of the obligation.

SOURCES: Laws, 1981, ch. 470, § 6; reenacted, Laws, 1984, ch. 419, § 6; Laws, 1991, ch. 357 § 2; Laws, 1992, ch. 496, § 53; Laws, 2007, ch. 575, § 1, eff from and after July 1, 2007.

Editor's Note — Section 27-3-4 provides that the terms "Mississippi State Tax Commission," "State Tax Commission," "Tax Commission" and "commission" appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue.

Cross References — Local and regional railroad authorities, see §§ 19-29-1 et seq.

Contracts or leases by railroad authorities in connection with operation of railroad properties and facilities, see § 19-29-23.

Aid and cooperation of political subdivisions with railroad authorities, see § 19-29-43.

Reimbursement for homestead exemption, generally, see §§ 27-33-3, 27-33-41.

Railroads and railroad corporations, see §§ 77-9-101 et seq.

RESEARCH REFERENCES

Am Jur. 65 Am. Jur. 2d, Railroads §§ 29, 30.

CJS. 74 C.J.S., Railroads §§ 90-102.

§ 57-43-13. Repealed.

Repealed by its own terms, eff from and after July 1, 2001.

[Laws, 1993, ch. 355, § 2; Laws, 2001, ch. 367, § 1, eff from and after July 1, 2001.]

Editor's Note — Former § 57-43-13 pertained to the Mississippi Grade Crossing Closure Account.

Laws of 2001, ch. 367, § 1, amended § 57-43-13 by adding a subsection (2), which read as follows:

"This section shall stand repealed from and after July 1, 2001, and all monies in the Mississippi Grade Crossing Closure Account on such date shall be transferred to the Mississippi Highway-Railroad Grade Crossing Safety Account established in Section 57-43-15."

§ 57-43-15. Mississippi Highway-Railroad Grade Crossing Safety Account.

(1) There is established within the Railroad Revitalization Fund a new account to be entitled the Mississippi Highway-Railroad Grade Crossing Safety Account. The account shall be administered by the Mississippi Department of Transportation and shall consist of:

(a) Such monies as are transferred to it on July 1, 2001, from the Mississippi Grade Crossing Closure Account;

(b) Thirty-five percent (35%) of collections from the locomotive fuel tax imposed under Section 27-59-307 for the previous year; and

(c) Monies transferred to it from the Railroad Revitalization Fund, pursuant to the provisions of Section 2 of Chapter 497, Laws of 2009.

Unexpended amounts remaining in the account at the end of a fiscal year shall not lapse into the State General Fund; and any interest earned on amounts in the account shall be deposited to the credit of the account.

(2) The Mississippi Transportation Commission, after consulting with the railroads operating in Mississippi, shall promulgate rules to ensure equitable allocation of the funds described in subsection (1) of this section to projects throughout the state, and shall consider the proportionate number of main line track miles of each railroad and the number of public roadway/railroad grade crossings on each railroad's main line. Expenditure of monies from the Mississippi Highway-Railroad Grade Crossing Safety Account shall be limited to the following purposes:

(a) Financial aid for closure of public roadway/railroad grade crossings;

(b) Realignment of construction costs of roadways being rerouted to facilitate a closure of a public roadway/railroad grade crossing;

(c) Monies to match federal or other funds for a grade separation eliminating an at-grade crossing of a public roadway and railroad;

(d) Installation, maintenance or upgrade of highway-railroad grade crossing signals, at the discretion of the Mississippi Transportation Commission, based upon the Federal Railroad Administration ranking of all Mississippi highway-railroad grade crossings. Not less than ten percent

(10%) of the monies necessary to defray the costs of such installations must be federal funds;

(e) Separation of grades of highway/railroad crossings;

(f) Improvement of any grade crossing including the necessary roadway approaches thereto of any railroad across a public road highway;

(g) Construction, reconstruction, repair or replacement of the grade crossing surface structure; and

(h) Installation of an automatic advance warning signal alerting a motorist that a grade crossing is ahead.

(3) The Mississippi Department of Transportation shall consider all requests from the state's diagnostic review of public roadway/railroad grade crossings and from individual railroads for expenditure of funds for the purposes described in subsection (2) of this section, and shall establish uniform criteria and guidelines relating to such crossings and the expenditure of funds.

SOURCES: Laws, 2001, ch. 367, § 2; Laws, 2007, ch. 572, § 1; Laws, 2009, ch. 497, § 6, eff from and after July 1, 2009.

RESEARCH REFERENCES

ALR. Liability for injury or death of pedestrian due to condition of surface at crossing. 64 A.L.R.2d 1199.

Liability of railroad for injury or damage resulting from motor vehicle striking bridge or underpass because of insufficient vertical clearance. 67 A.L.R.2d 1364.

Liability of railroad for injury due to road vehicle running into train or car standing on highway crossing. 84 A.L.R.2d 813.

Failure of signaling device at crossing to operate, as affecting railroad company's liability. 90 A.L.R.2d 350.

Liability to owner or occupant of motor vehicle for accident allegedly resulting from defective condition of road surface at crossing. 91 A.L.R.2d 10.

Am Jur. 39 Am. Jur. 2d, Highways, Streets, and Bridges §§ 125, 281, 295.

65 Am. Jur. 2d, Railroads §§ 276 et seq.

21 Am. Jur. Pl & Pr Forms (Rev), Railroads, Forms 21, 22, 31-37, 61-63, 164, 165, 311 et seq. (railroad grade crossings).

23 Am. Jur. Trials 1, Railroad Crossing Accident Litigation.

18 Am. Jur. Proof of Facts 2d 611, Extrahazardous Nature of Railroad Crossing — Obstruction of View.

37 Am. Jur. Proof of Facts 2d 439, Inadequacy of Warning Device at Railroad Crossing.

CJS. 74 C.J.S., Railroads §§ 503 et seq.

CHAPTER 44

Local Governments Freight Rail Service Projects

Sec.
57-44-1. Legislative findings and declaration of purpose.
57-44-3. Definitions.
57-44-5. Establishment of local governments freight rail service revolving loan program.
57-44-7. Local Governments Freight Rail Service Project Revolving Loan Fund; loans to counties and municipalities; repayment of loans; proceedings involving counties and municipalities in arrears on loan payments; status of evidences of indebtedness issued under chapter; renegotiation of certain loans.
57-44-9. General powers and duties of Department of Economic and Community Development.
57-44-11. Resolution of necessity for issuance of state general obligation bonds; powers and duties of State Bond Commission as issuing agent; limitation on bonds; disposition of proceeds of sale of bonds and investment earnings generally.
57-44-13. Interest rates, maturity, and form of bonds.
57-44-15. Execution of bonds and interest coupons.
57-44-17. Bonds and interest coupons deemed negotiable instruments; compliance with Uniform Commercial Code by Sate Bond Commission.
57-44-19. Issuance and sale of bonds by State Bond Commission; form and details of bonds; payment of interest on bonds generally.
57-44-21. Payment of principal and interest on bonds.
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57-44-25. Requirements for issuance of bonds; adoption and effectiveness of resolution for issuance of bonds.
57-44-27. Validation of bonds.
57-44-29. Enforcement of rights of holders of bonds or coupons.
57-44-31. Bonds deemed legal investments and securities.
57-44-33. Exemption from taxation of bonds.
57-44-35. Use of proceeds of bonds.
57-44-37. Requests for and issuance of warrants for payments on bonds; transfer of funds by State Treasurer.
57-44-39. Construction of chapter.

§ 57-44-1. Legislative findings and declaration of purpose.

The implementation of freight rail service projects within the State of Mississippi develops and promotes, for the public good, safety and general welfare, trade, commerce, industry, and employment opportunities, and promotes the general welfare of the state by creating a climate favorable to the location of new industry, trade, and commerce and the development of existing industry, trade and commerce within the State of Mississippi. Implementation of freight rail service projects within this state will develop and promote, for the public good, safety and general welfare, trade, commerce, industry, and employment opportunities, and will promote the general welfare of the state. It is therefore in the public interest and is vital to the public welfare of the people of Mississippi, and it is declared to be the public purpose of this chapter to so develop freight rail service projects within this state.

SOURCES: Laws, 1995, ch. 563, § 1; Laws, 2001, ch. 481, § 1, eff from and after July 1, 2001.

Cross References — Local and regional railroad authorities, see §§ 19-29-1 et seq.

§ 57-44-3. Definitions.

As used in this chapter the term "freight rail service project" means the acquisition, construction, installation, operation, modification, renovation, or rehabilitation of any freight rail service facilities. A project may also include any fixtures, machinery, or equipment used on, in or in connection with any such facilities. A project may be for any freight transportation purpose, provided that the department determines that the project will further the public purposes of this chapter.

SOURCES: Laws, 1995, ch. 563, § 2, eff from and after July 2, 1995.

§ 57-44-5. Establishment of local governments freight rail service revolving loan program.

There is established a local governments freight rail service project revolving loan program to be administered by the Department of Economic and Community Development for the purpose of making loans to counties and municipalities that the governing authorities of such counties and municipalities may utilize to make loans to railroad corporations for freight rail service projects.

SOURCES: Laws, 1995, ch. 563, § 3, eff from and after July 2, 1995.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-44-7. Local Governments Freight Rail Service Project Revolving Loan Fund; loans to counties and municipalities; repayment of loans; proceedings involving counties and municipalities in arrears on loan payments; status of evidences of indebtedness issued under chapter; renegotiation of certain loans.

(1) There is created a special fund in the State Treasury to be designated as the "Local Governments Freight Rail Service Project Revolving Loan Fund," which fund shall consist of such monies as provided in Sections 57-44-11 through 57-44-39. The fund shall be maintained in perpetuity for the purposes established in this chapter. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any

interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund may not be used or expended for any purpose except as authorized under this chapter. However, the Mississippi Development Authority, in order to promote the safety of the general public, shall establish a program to permit monies from the Local Governments Freight Rail Service Project Revolving Loan Fund to be provided to counties in the form of grants to assist counties in defraying expenses relating to the upgrading of railroad grade crossings. Only projects approved by the Mississippi Department of Transportation shall be eligible for such grants. The Mississippi Development Authority, by rule and regulation, shall establish the maximum amount of any grant awarded to a county and may establish such other rules and regulations as it deems appropriate or necessary to administer the grant program and ensure that monies in the fund are made available to all counties on an equitable basis. Federal funds shall be utilized to pay not less than five percent (5%) of the cost of each project. However, the maximum amount of such grants to all counties may not exceed Eight Million Dollars ($8,000,000.00), in the aggregate.

(2) The Mississippi Development Authority shall establish a loan program by which loans, at a rate of interest not to exceed one percent (1%) less than the federal reserve discount rate, may be made available to counties and incorporated municipalities to provide loans to counties and incorporated municipalities which may be used by the governing authorities of such counties and municipalities to provide loans to railroad corporations for freight rail service projects. Loans from the revolving fund may be made to counties and municipalities as set forth in a loan agreement in amounts established by the Mississippi Development Authority. The Mississippi Development Authority may establish a maximum amount for any loan in order to provide for broad and equitable participation in the program.

(3) A county that receives a loan from the revolving fund shall pledge for repayment of the loan any part of the homestead exemption annual tax loss reimbursement to which it may be entitled under Section 27-33-77. An incorporated municipality that receives a loan from the revolving fund shall pledge for repayment of the loan any part of the sales tax revenue distribution to which it may be entitled under Section 27-65-75. Each loan agreement shall provide for (a) monthly payments, (b) semiannual payments, or (c) other periodic payments, the annual total of which shall not exceed the annual total for any other year of the loan by more than fifteen percent (15%). The loan agreement shall provide for the repayment of all funds received within not more than fifteen (15) years from the date of project completion.

(4) The State Auditor, upon request of the Mississippi Development Authority, shall audit the receipts and expenditures of a county or an incorporated municipality whose loan payments appear to be in arrears, and if he finds that the county or municipality is in arrears in such payments, he shall immediately notify the Executive Director of the Department of Finance and Administration who shall withhold all future payments to the county of homestead exemption reimbursements under Section 27-33-77 and all sums

allocated to the county or the municipality under Section 27-65-75 until such time as the county or the municipality is again current in its loan payments as certified by the Mississippi Development Authority.

(5) Evidences of indebtedness which are issued pursuant to this chapter shall not be deemed indebtedness within the meaning specified in Section 21-33-303 with regard to cities or incorporated towns, and in Section 19-9-5 with regard to counties.

(6) The Mississippi Development Authority may, on a case-by-case basis, renegotiate the payment of principal and interest on loans made under this chapter to the six (6) most southern counties of the state covered by the Presidential Declaration of Major Disaster for the State of Mississippi (FEMA-1604-DR) dated August 29, 2005, and to incorporated municipalities located in such counties; however, the interest on the loans shall not be forgiven for a period of more than twenty-four (24) months and the maturity of the loans shall not be extended for a period of more than forty-eight (48) months.

SOURCES: Laws, 1995, ch. 563, § 4; Laws, 2001, ch. 481, § 2; Laws, 2003, ch. 521, § 2; Laws, 2006, ch. 545, § 7, eff from and after passage (approved Apr. 18, 2006.)

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of the state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section 27-104-6 provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration".

Cross References — County reimbursement for tax loss may be used as security for loan, see § 27-33-77.

Revenue from certain taxes may be used as security for loan, see § 27-65-75.

Disbursements from fund, see § 57-44-23.

§ 57-44-9. General powers and duties of Department of Economic and Community Development.

In administering the provisions of this chapter, the Department of Economic and Community Development shall have the following powers and duties:

(a) To supervise the use of all funds made available under this chapter;

(b) To review all freight rail service projects for which loans are made under this chapter by local governments;

(c) To requisition monies in the Local Governments Freight Rail Service Project Revolving Loan Fund and distribute those monies to counties and municipalities, on a project-by-project basis in accordance with the provisions of this chapter;

(d) To insure that the funds made available to a county or an incorporated municipality under this chapter provide for an equitable distribution of projects and funds among the counties and incorporated municipalities;

(e) To maintain an accurate record of all funds made available to counties and municipalities.

(f) To adopt and promulgate such rules and regulations as may be necessary or desirable for the purpose of implementing the provisions of this chapter; and

(g) To file annually with the Legislature a report detailing how monies in the Revolving Loan Fund were spent during the preceding fiscal year in each county and incorporated municipality, the number of freight rail service projects constructed, and the cost of each project.

SOURCES: Laws, 1995, ch. 563, § 5, eff from and after July 2, 1995.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-44-11. Resolution of necessity for issuance of state general obligation bonds; powers and duties of State Bond Commission as issuing agent; limitation on bonds; disposition of proceeds of sale of bonds and investment earnings generally.

(1) The State Bond Commission, at one time, or from time to time, may declare by resolution the necessity for issuance of general obligation bonds of the State of Mississippi to provide funds for all costs incurred or to be incurred for the purposes described in Section 57-44-7. Upon the adoption of a resolution by the Mississippi Development Authority, declaring the necessity for the issuance of any part or all of the general obligation bonds authorized by this section, the Mississippi Development Authority shall deliver a certified copy of its resolution or resolutions to the State Bond Commission. Upon receipt of such resolution, the State Bond Commission, in its discretion, may act as the issuing agent, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The total amount of bonds issued under Sections 57-44-11 through 57-44-39 shall not exceed Eighteen Million Dollars ($18,000,000.00).

(2) Proceeds from the sale of bonds shall be deposited in the special fund created in Section 57-44-7. Any investment earnings on amounts deposited into the special fund created in Section 57-44-7 shall be used to pay debt service on bonds issued under Sections 57-44-11 through 57-44-39, in accordance with the proceedings authorizing issuance of such bonds.

SOURCES: Laws, 1995, ch. 563, § 6; Laws, 2003, ch. 521, § 1, eff from and after July 1, 2003.

Cross References — Interest rates, maturity and form of bonds, see § 57-44-13.
Execution of bonds and interest coupons, see § 57-44-15.
Issuance and sale of bonds, see § 57-44-19.
Adoption and effectiveness of resolution for issuance of bonds, see § 57-44-25.

§ 57-44-13. Interest rates, maturity, and form of bonds.

The principal of and interest on the bonds authorized under Section 57-44-11 shall be payable in the manner provided in this section. Such bonds shall bear such date or dates, be in such denomination or denominations, bear interest at such rate or rates (not to exceed the limits set forth in Section 75-17-101, Mississippi Code of 1972), be payable at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times not to exceed twenty-five (25) years from date of issue, be redeemable before maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by resolution of the State Bond Commission.

SOURCES: Laws, 1995, ch. 563, § 7, eff from and after July 2, 1995.

§ 57-44-15. Execution of bonds and interest coupons.

The bonds authorized by Section 57-44-11 shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the commission shall be affixed thereto, attested by the Secretary of the State Bond Commission. The interest coupons, if any, to be attached to such bonds may be executed by the facsimile signatures of such officers. Whenever any such bonds shall have been signed by the officials designated to sign the bonds who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until their delivery to the purchaser, or had been in office on the date such bonds may bear. However, notwithstanding anything herein to the contrary, such bonds may be issued as provided in the Registered Bond Act of the State of Mississippi.

SOURCES: Laws, 1995, ch. 563, § 8, eff from and after July 2, 1995.

Cross References — Mississippi Registered Bond Act, see §§ 31-21-1 et seq.

§ 57-44-17. Bonds and interest coupons deemed negotiable instruments; compliance with Uniform Commercial Code by Sate Bond Commission.

All bonds and interest coupons issued under the provisions of Sections 57-44-11 through 57-44-39 shall have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code, and in exercising the powers granted by this chapter, the State Bond Commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

SOURCES: Laws, 1995, ch. 563, § 9, eff from and after July 2, 1995.

Cross References — Negotiable instruments generally, see §§ 75-3-101 et seq.

§ 57-44-19. Issuance and sale of bonds by State Bond Commission; form and details of bonds; payment of interest on bonds generally.

The State Bond Commission shall act as the issuing agent for the bonds authorized under Section 57-44-11, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds so authorized to be sold, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The State Bond Commission is authorized and empowered to pay the costs that are incident to the sale, issuance and delivery of the bonds authorized under Sections 57-44-11 through 57-44-39 from the proceeds derived from the sale of such bonds. The State Bond Commission shall sell such bonds on sealed bids at public sale, and for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale shall be made at a price less than par plus accrued interest to the date of delivery of the bonds to the purchaser. All interest accruing on such bonds so issued shall be payable semiannually or annually; however, the first interest payment may be for any period of not more than one (1) year.

Notice of the sale of any such bond shall be published at least one (1) time, not less than ten (10) days before the date of sale, and shall be so published in one or more newspapers published or having a general circulation in the City of Jackson, Mississippi, and in one or more other newspapers or financial journals with a national circulation, to be selected by the State Bond Commission.

The State Bond Commission, when issuing any bonds under the authority of Sections 57-44-11 through 57-44-39, may provide that bonds, at the option of the State of Mississippi, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

SOURCES: Laws, 1995, ch. 563, § 10, eff from and after July 2, 1995.

§ 57-44-21. Payment of principal and interest on bonds.

The bonds issued under the provisions of Sections 57-44-11 through 57-44-39 are general obligations of the State of Mississippi, and for the payment thereof the full faith and credit of the State of Mississippi is irrevocably pledged. If the funds appropriated by the Legislature are insufficient to pay the principal of and the interest on such bonds as they become due, then the deficiency shall be paid by the State Treasurer from any funds in the State Treasury not otherwise appropriated. All such bonds shall contain recitals on their faces substantially covering the provisions of this section.

SOURCES: Laws, 1995, ch. 563, § 11, eff from and after July 2, 1995.

§ 57-44-23. Disposition of proceeds from sale of bonds.

Upon the issuance and sale of bonds under the provisions of Sections 57-44-11 through 57-44-39, the State Bond Commission shall transfer the proceeds of any such sale or sales to the special fund created in Section 57-44-7. The proceeds of such bonds shall be disbursed solely upon the order of the Department of Economic and Community Development under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds.

SOURCES: Laws, 1995, ch. 563, § 12, eff from and after July 2, 1995.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-44-25. Requirements for issuance of bonds; adoption and effectiveness of resolution for issuance of bonds.

The bonds authorized under Sections 57-44-11 through 57-44-39 may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by Sections 57-44-11 through 57-44-39. Any resolution providing for the issuance of bonds under the provisions of Sections 57-44-11 through 57-44-39 shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular or special meeting of the State Bond Commission by a majority of its members.

SOURCES: Laws, 1995, ch. 563, § 13, eff from and after July 2, 1995.

Cross References — Resolution for issuance of bonds generally, see § 57-44-11.

§ 57-44-27. Validation of bonds.

The bonds authorized under the authority of Sections 57-44-11 through 57-44-39 may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The notice to taxpayers required by such statutes shall be published in a newspaper published or having a general circulation in the City of Jackson, Mississippi.

SOURCES: Laws, 1995, ch. 563, § 14, eff from and after July 2, 1995.

§ 57-44-29. Enforcement of rights of holders of bonds or coupons.

Any holder of bonds issued under the provisions of Sections 57-44-11 through 57-44-39 or of any of the interest coupons pertaining thereto may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights granted under Sections 57-44-11 through 57-44-39, or under such resolution, and may enforce and compel performance of all duties required by Sections 57-44-11 through 57-44-39 to be performed, in order to provide for the payment of bonds and interest thereon.

SOURCES: Laws, 1995, ch. 563, § 15, eff from and after July 2, 1995.

§ 57-44-31. Bonds deemed legal investments and securities.

All bonds issued under the provisions of Sections 57-44-11 through 57-44-39 shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi, and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

SOURCES: Laws, 1995, ch. 563, § 16, eff from and after July 2, 1995.

Cross References — Investments by insurance companies, see § 83-19-51.

§ 57-44-33. Exemption from taxation of bonds.

Bonds issued under the provisions of Sections 57-44-11 through 57-44-39 and income therefrom shall be exempt from all taxation in the State of Mississippi.

SOURCES: Laws, 1995, ch. 563, § 17, eff from and after July 2, 1995.

§ 57-44-35. Use of proceeds of bonds.

The proceeds of the bonds issued under Sections 57-44-11 through 57-44-39 shall be used solely for the purposes herein provided, including the costs incident to the issuance and sale of such bonds.

SOURCES: Laws, 1995, ch. 563, § 18, eff from and after July 2, 1995.

§ 57-44-37. Requests for and issuance of warrants for payments on bonds; transfer of funds by State Treasurer.

The State Treasurer is authorized to certify to the Department of Finance and Administration the necessity for warrants, and the Executive Director of the Department of Finance and Administration is authorized and directed to issue such warrants, in such amounts as may be necessary to pay when due the principal of, premium, if any, and interest on, or the accreted value of, all bonds issued under Sections 57-44-11 through 57-44-39; and the State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

SOURCES: Laws, 1995, ch. 563, § 19, eff from and after July 2, 1995.

§ 57-44-39. Construction of chapter.

Sections 57-44-11 through 57-44-39 shall be deemed to be full and complete authority for the exercise of the powers herein granted, but this chapter shall not be deemed to repeal or to be in derogation of any existing law of this state.

SOURCES: Laws, 1995, ch. 563, § 20, eff from and after July 2, 1995.

CHAPTER 45

Mississippi-Louisiana-Alabama Rapid Rail Transit Compact

Sec.
57-45-1. Mississippi-Louisiana-Alabama Rapid Rail Transit Compact.

§ 57-45-1. Mississippi-Louisiana-Alabama Rapid Rail Transit Compact.

(a) The Governor, on behalf of this state, is hereby authorized to execute a compact in substantially the following form with the States of Louisiana and Alabama; and the Legislature hereby signifies in advance its approval and ratification of such compact, which compact is as follows:

MISSISSIPPI-LOUISIANA-ALABAMA RAPID RAIL TRANSIT COMPACT

ARTICLE I

The purpose of this compact is to study the feasibility of rapid rail transit service between Mississippi and the States of Louisiana and Alabama and to establish a joint interstate commission to assist in this effort.

ARTICLE II

This compact shall become effective immediately as to the states ratifying it whenever the States of Louisiana, Mississippi and Alabama have ratified it, and Congress has given consent thereto. Any state not mentioned in this article which is contiguous with any member state may become a party to this compact, subject to approval by the Legislature of each of the member states.

ARTICLE III

The states which are parties to this compact (hereinafter referred to as "party states") do hereby establish and create a joint agency which shall be known as the Mississippi-Louisiana Rapid Rail Transit Commission (hereinafter referred to as the "commission"). The membership of such commission shall consist of: the Governor of each party state, one (1) representative each from the Mississippi Energy and Transportation Board, or its successor, and the Office of Aviation and Public Transportation of the Louisiana Department of Transportation and Development, or its successor, five (5) other citizens of each party state, to be appointed by the Governor thereof. The appointive members of the commission shall serve for terms of four (4) years each. Vacancies on the commission shall be filled by appointment by the Governor for the unexpired portion of the term. The members of the commission shall not be compensated for service on the commission, but each of the appointed members shall be entitled to actual and reasonable expenses incurred in attending meetings, or incurred otherwise in the performance of his duties as a member of the commission. The members of the commission shall hold regular quarterly meetings and such special meetings as its business may require. They shall choose annually a chairman and vice chairman from among their members, and the chairmanship shall rotate each year among the party states in order of their acceptance of this compact. The commission shall adopt rules and regulations for the transaction of its business and a record shall be kept of all its business. It shall be the duty of the commission to study the feasibility of providing interstate rapid rail transit service between the party states. Toward this end, the commission shall have power to hold hearings; to conduct studies and surveys of all problems, benefits and other matters associated with such service, and to make reports thereon; to acquire, by gift, grant or otherwise, from local, state, federal or private sources such money or property as may be provided for the proper performance of their function, and to hold and dispose of same; to cooperate with other public or private groups, whether local, state, regional or national, having an interest in such service; to formulate and execute plans and policies for emphasizing the purpose of this compact before the Congress of the United States and other appropriate officers and agencies of the United States; and to exercise such other powers as may be appropriate to enable it to accomplish its functions and duties and to carry out the purposes of this compact.

ARTICLE IV

Each party state agrees that its Legislature may, in its discretion, from time to time make available and pay over to the commission funds for the establishment and operation of the commission. The contribution of each party state shall be in equal amounts, if possible, but nothing in this article shall be construed as binding the Legislature of either state to make an appropriation of a set amount of funds at any particular time.

ARTICLE V

Nothing in this compact shall be construed so as to conflict with any existing statute, or to limit the powers of any party state, or to repeal or prevent legislation, or to affect any existing or future cooperative arrangement or relationship between any federal agency and a party state.

ARTICLE VI

(1) This compact shall continue in force and remain binding upon each party state until the Legislature or Governor of each or either state takes action to withdraw therefrom. However, any such withdrawal shall not become effective until six (6) months after the date of the action taken by the Legislature or Governor. Notice of such action shall be given to the other party state or states by the Secretary of State of the party state which takes such action.

(2) There is hereby granted to the Governor, to the members of the commission for Louisiana, and to the compact administrator all the powers provided for in the compact and in this section. All officers of the State of Mississippi are hereby authorized and directed to do all things falling within their respective jurisdictions which are necessary or incidental to carrying out the purpose of the compact.

(b) Pursuant to Article II of this compact, the Legislature of the State of Mississippi hereby assents to the State of Alabama becoming a party to such compact, subject to ratification by the State of Alabama of the terms and provisions thereof.

(c) Pursuant to Article III of this compact, in the exercise of such other powers as may be appropriate to enable the commission to accomplish its functions and duties and to carry out the purposes of this compact, the name of the commission shall be changed to the Southern High-Speed Rail Commission, subject to ratification by the States of Alabama and Louisiana.

SOURCES: Laws, 1981, ch. 518, § 1; Laws, 1983, ch. 311; Laws, 2009, ch. 497, § 7, eff from and after July 1, 2009.

Editor's Note — Laws of 2009, ch. 497, § 1 provides:

"SECTION 1. The Legislature finds and determines that:

"(a) There exists in the State of Mississippi a continuing need to construct, improve and invest in rail or railroad infrastructure within the state. A strong rail infrastructure promotes economic development and employment opportunities and promotes the public good and general welfare of the state.

"(b) The public purpose of the provisions of this act is to develop a coordinated program related to rail infrastructure for freight and passenger rail travel within the State of Mississippi, including, but not limited to, the construction of such additional rail lines or tracks as may be necessary or advisable, the maintenance and improvement of the existing rail infrastructure, and the prudent use of state funds to take advantage of any opportunities for federal funding assistance that may be available.

"(c) The issuance of bonds and the borrowing of money for the specific purposes set forth in this act serve the public interest and are vital to the public safety and welfare of the people of Mississippi, and to the economic development of the state."

Cross References — Traveling expenses of state officers and employees, generally, see § 25-3-41.

Department of Transportation, in consultation with Southern High-Speed Rail Commission and Mississippi Development Authority, to promote passenger rail service and make recommendations regarding passenger rail infrastructure, see § 65-1-177.

Comparable Laws from other States — Alabama Code, § 37-11A-1.

Georgia Code Annotated, § 46-9-300.

Louisiana Revised Statutes Annotated, §§ 48:1671, 48:1672.

Tennessee Code Annotated, §§ 4-42-101 through 4-42-110.

RESEARCH REFERENCES

Am Jur. 72 Am. Jur. 2d, States, Territories, and Dependencies § 9.

CJS. 81A C.J.S., States §§ 67-70.

CHAPTER 46

Mississippi Railroad Improvements Fund

SEC.
57-46-1. Mississippi Railroad Improvements Fund created; use of funds; grant program established; purpose of grants; application for grants.

§ 57-46-1. Mississippi Railroad Improvements Fund created; use of funds; grant program established; purpose of grants; application for grants.

(1)(a) There is created a special fund in the State Treasury to be known as the Mississippi Railroad Improvements Fund which shall consist of monies from any source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be disbursed by the Mississippi Development Authority (MDA) for the purposes authorized in subsection (2) of this section.

(b) Monies in the fund that are derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA in providing grants under this section through the use of general obligation bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each grant by the MDA. Reimbursement of reasonable actual and necessary costs for assistance shall not exceed three percent (3%) of the proceeds of bonds issued for such assistance. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(2) The MDA shall establish a program to make grants from the Mississippi Railroad Improvements Fund to assist in paying a portion of the costs associated with the repair, rehabilitation, construction, reconstruction, upgrading and improvement of railroad lines and related facilities, including projects necessary to ensure safety and structural integrity of rail lines, rail beds and bridges.

(3)(a) An entity desiring a grant under this section shall submit an application to the MDA which shall include, at a minimum:

(i) A description, including the cost, of the requested assistance;

(ii) A description of the purpose for which the assistance is requested; and

(iii) Any other information required by the MDA.

(b) The MDA shall have sole discretion in providing grants under this section. The terms of a grant shall be within the discretion of the MDA.

(4) The MDA shall have all powers necessary to implement and administer the program established under this section, including the establishing of requirements for matching funds and criteria regarding the evaluation of applications for assistance. The MDA shall promulgate rules and regulations,

in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation and administration of this section.

SOURCES: Laws, 2011, ch. 480, § 44, eff from and after passage (approved Apr. 6, 2011.)

Cross References — Mississippi Administrative Procedures Law, see §§ 25-43-1.101 et seq.

CHAPTER 47

Southeast Interstate Low-Level Radioactive Waste Management Compact

Sec.
57-47-1. Adoption and terms of compact.
57-47-3. Membership of commission.
57-47-5. Powers and duties of Governor.
57-47-7. Budget of commission.
57-47-9. Cooperation by state agencies and officers with commission.

§ 57-47-1. Adoption and terms of compact.

The Southeast Interstate Low-Level Radioactive Waste Management Compact is hereby enacted into law and entered into by this state with any and all states legally joining therein in accordance with its terms, in the form substantially as follows:

Article I.

Policy and Purpose

There is hereby created the Southeast Interstate Low-Level Radioactive Waste Management Compact. The party states recognize and declare that each state is responsible for providing for the availability of capacity either within or outside the state for disposal of low-level radioactive waste generated within its borders, except for waste generated as a result of defense activities of the federal government or federal research and development activities. They also recognize that the management of low-level radioactive waste is handled most efficiently on a regional basis. The party states further recognize that the Congress of the United States, by enacting the Low-Level Radioactive Waste Policy Act (P.L. 96-573), has provided for and encourages the development of low-level radioactive waste compacts as a tool for disposal of such waste. The party states recognize that the safe and efficient management of low-level radioactive waste generated within the region requires that sufficient capacity to dispose of such waste be properly provided.

It is the policy of the party states to: enter into a regional low-level radioactive waste management compact for the purpose of providing the instrument and framework for a cooperative effort, provide sufficient facilities for the proper management of low-level radioactive waste generated in the region, promote the health and safety of the region, limit the number of facilities required to effectively and efficiently manage low-level radioactive waste generated in the region, encourage the reduction of the amounts of low-level waste generated in the region, distribute the costs, benefits and obligations of successful low-level radioactive waste management equitably among the party states, and ensure the ecological and economical management of low-level radioactive wastes.

Implicit in the congressional consent to this compact is the expectation by the Congress and the party states that the appropriate federal agencies will actively assist the compact commission and the individual party states to this compact by:

1. Expeditious enforcement of federal rules, regulations and laws; and
2. Imposing sanctions against those found to be in violation of federal rules, regulations and laws; and
3. Timely inspection of their licensees to determine their capability to adhere to such rules, regulations and laws; and
4. Timely provision of technical assistance to this compact in carrying out their obligations under the Low-Level Radioactive Waste Policy Act as amended.

Article II.

Definitions

As used in this compact, unless the context clearly requires a different construction:

a. "Commission" or "compact commission" means the Southeast Interstate Low-Level Radioactive Waste Management Commission.

b. "Facility" means a parcel of land, together with the structures, equipment and improvements thereon or appurtenant thereto, which is used or is being developed for the treatment, storage or disposal of low-level radioactive waste.

c. "Generator" means any person who produces or possesses low-level radioactive waste in the course of or as an incident to manufacturing, power generation, processing, medical diagnosis and treatment, research, or other industrial or commercial activity. This does not include persons who provide a service to generators by arranging for the collection, transportation, storage or disposal of wastes with respect to such waste generated outside the region.

d. "High-level waste" means irradiated reactor fuel, liquid wastes from reprocessing irradiated reactor fuel and solids into which such liquid wastes have been converted, and other high-level radioactive waste as defined by the United States Nuclear Regulatory Commission.

e. "Host state" means any state in which a regional facility is situated or is being developed.

f. "Low-level radioactive waste" or "waste" means radioactive waste not classified as high-level radioactive waste, transuranic waste, spent nuclear fuel or by-product material as defined in Section 11e(2) of the Atomic Energy Act of 1954, or as may be further defined by federal law or regulation.

g. "Party state" means any state which is a signatory party to this compact.

h. "Person" means any individual, corporation, business enterprise or other legal entity (either public or private).

i. "Region" means the collective party states.

j. "Regional facility" means (1) a facility as defined in this article which has been designated, authorized, accepted or approved by the commission to receive waste or (2) the disposal facility in Barnwell County, South Carolina, owned by the State of South Carolina and as licensed for the burial of low-level radioactive waste on July 1, 1982, but in no event shall this disposal facility serve as a regional facility beyond December 31, 1992.

k. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands or any other territorial possession of the United States.

l. "Transuranic wastes" means waste material containing transuranic elements with contamination levels as determined by the regulations of (1) the United States Nuclear Regulatory Commission or (2) any host state, if it is an agreement state under Section 274 of the Atomic Energy Act of 1954.

m. "Waste management" means the storage, treatment or disposal of waste.

Article III.

Rights and Obligations

The rights granted to the party states by this compact are additional to the rights enjoyed by sovereign states, and nothing in this compact shall be construed to infringe upon, limit or abridge those rights.

a. Subject to any license issued by the United States Nuclear Regulatory Commission or a host state, each party state shall have the right to have all wastes generated within its borders stored, treated or disposed of, as applicable, at regional facilities, and additionally shall have the right of access to facilities made available to the region through agreements entered into by the commission pursuant to Article IV(e)(9). The right of access by a generator within a party state to any regional facility is limited by its adherence to applicable state and federal law and regulation.

b. If no operating regional facility is located within the borders of a party state and wastes generated within its borders must therefore be stored, treated, or disposed of at a regional facility in another party state, the party state without such facilities may be required by the host state or states to establish a mechanism which provides compensation for access to the regional facility according to terms and conditions established by the host state or states and approved by a two-thirds (⅔) vote of the commission.

c. Each party state must establish the capability to regulate, license and ensure the maintenance and extended care of any facility within its borders. Host states are responsible for the availability, the subsequent post closure observation and maintenance, and the extended institutional control of their regional facilities, in accordance with the provisions of Article V(b).

d. Each party state must establish the capability to enforce any applicable federal or state laws and regulations pertaining to the packaging and transportation of waste generated within or passing through its borders.

e. Each party state must provide to the commission on an annual basis, any data and information necessary to the implementation of the commission's responsibilities. Each party state shall establish the capability to obtain any data and information necessary to meet its obligation herein defined.

f. Each party state must, to the extent authorized by federal law, require generators within its borders to use the best available waste management technologies and practices to minimize the volumes of wastes requiring disposal.

Article IV.

The Commission

a. There is hereby created the Southeast Interstate Low-Level Radioactive Waste Management Commission, ("the commission" or "compact commission"). The commission shall consist of two (2) voting members from each party state to be appointed according to the laws of each state. The appointing authorities of each state must notify the commission in writing of the identity of its members and any alternates. An alternate may act on behalf of the member only in the member's absence.

b. Each commission member is entitled to one (1) vote. No action of the commission shall be binding unless a majority of the total membership cast their vote in the affirmative, or unless a greater than majority vote is specifically required by any other provision of this compact.

c. The commission must elect from among its members a presiding officer. The commission shall adopt and publish, in convenient form, bylaws which are consistent with this compact.

d. The commission must meet at least once a year and shall also meet upon the call of the presiding officer, by petition of a majority of the party states, or upon the call of a host state. All meetings of the commission must be open to the public.

e. The commission has the following duties and powers:

1. To receive and approve the application of a nonparty state to become an eligible state in accordance with Article VII(b); and
2. To receive and approve the application of an eligible state to become a party state in accordance with Article VII(c); and
3. To submit an annual report and other communications to the governors and to the presiding officer of each body of the legislature of the party states regarding the activities of the commission; and
4. To develop and use procedures for determining, consistent with considerations for public health and safety, the type and number of regional facilities which are presently necessary and which are projected to be necessary to manage waste generated within the region; and
5. To provide the party states with reference guidelines for establishing the criteria and procedures for evaluating alternative locations for emergency or permanent regional facilities; and

6. To develop and adopt, within one (1) year after the commission is constituted as provided for in Article VII(d), procedures and criteria for identifying a party state as a host state for a regional facility as determined pursuant to the requirements of this article. In accordance with these procedures and criteria, the commission shall identify a host state for the development of a second regional disposal facility within three (3) years after the commission is constituted as provided for in Article VII(d) and shall seek to ensure that such facility is licensed and ready to operate as soon as required, but in no event later than 1991.

In developing criteria, the commission must consider the following: the health, safety, and welfare of the citizens of the party states; the existence of regional facilities within each party state; the minimization of waste transportation; the volumes and types of wastes generated within each party state; and the environmental, economic, and ecological impacts on the air, land and water resources of the party states.

The commission shall conduct such hearings, require such reports, studies, evidence and testimony; and do what is required by its approved procedures in order to identify a party state as a host state for a needed facility; and

7. In accordance with the procedures and criteria developed pursuant to Section (e)(6) of this article, to designate, by a two-thirds (⅔) vote, a host state for the establishment of a needed regional facility. The commission shall not exercise this authority unless the party states have failed to voluntarily pursue the development of such facility. The commission shall have the authority to revoke the membership of a party state that willfully creates barriers to the siting of a needed regional facility; and

8. To require of and obtain from party states, eligible states seeking to become party states, and nonparty states seeking to become eligible states, data and information necessary to the implementation of commission responsibilities; and

9. Notwithstanding any other provision of this compact, to enter into agreements with any person, state or similar regional body or group of states for the importation of waste into the region and for the right of access to facilities outside the region for waste generated within the region. The authorization to import requires a two-thirds (⅔) majority vote of the commission, including an affirmative vote of both representatives of a host state in which any affected regional facility is located. This shall be done only after an assessment of the affected facilities' capability to handle such wastes; and

10. To act or appear on behalf of any party state or states, only upon written request of both members of the commission for such state or states, as an intervenor or party in interest before Congress, state legislatures, any court of law, or any federal, state or local agency, board or commission which has jurisdiction over the management of wastes. The authority to act, intervene or otherwise appear shall be exercised by the commission only after approval by a majority vote of the commission; and

11. To revoke the membership of a party state in accordance with Article VII(f).

f. The commission may establish any advisory committees as it deems necessary for the purpose of advising the commission on any matters pertaining to the management of low-level radioactive waste.

g. The commission may appoint or contract for and compensate a limited staff necessary to carry out its duties and functions. The staff shall serve at the commission's pleasure irrespective of the civil service, personnel or other merit laws of any of the party states or the federal government and shall be compensated from funds of the commission. In selecting any staff, the commission shall assure that the staff has adequate experience and formal training to carry out such functions as may be assigned to it by the commission. If the commission has a headquarters it shall be in a party state.

h. Funding for the commission shall be provided as follows:

1. Each eligible state, upon becoming a party state, shall pay Twenty-five Thousand Dollars ($25,000.00) to the commission which shall be used for costs of the commission's services.

2. Each state hosting a regional disposal facility shall annually levy special fees or surcharges on all users of such facility, based upon the volume of wastes disposed of at such facilities, the total of which:

(a) Must be sufficient to cover the annual budget of the commission; and

(b) Must represent the financial commitments of all party states to the commission; and

(c) Must be paid to the commission, provided, however, that each host state collecting such fees or surcharges may retain a portion of the collection sufficient to cover its administrative costs of collection, and that the remainder be sufficient only to cover the approved annual budgets of the commission.

3. The commission must set and approve its first annual budget as soon as practicable after its initial meeting. Host states for disposal facilities must begin imposition of the special fees and surcharges provided for in this section as soon as practicable after becoming party states, and must remit to the commission funds resulting from collection of such special fees and surcharges within sixty (60) days of their receipt.

i. The commission must keep accurate accounts of all receipts and disbursements. An independent certified public accountant shall annually audit all receipts and disbursements of commission funds, and submit an audit report to the commission. Such audit report shall be made a part of the annual report of the commission required by Article IV(e)(3).

j. The commission may accept for any of its purposes and functions any and all donations, grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. The nature, amount and condition, if any, attendant upon any donation or grant accepted pursuant to this paragraph together with the identity of the donor, grantor or lender, shall be detailed in the annual report of the commission.

k. The commission is not responsible for any costs associated with (1) the creation of any facility, (2) the operation of any facility, (3) the stabilization and closure of any facility, (4) the postclosure observation, and maintenance of any facility, or (5) the extended institutional control, after postclosure observation and maintenance of any facility.

l. As of January 1, 1986, the management of wastes at regional facilities is restricted to wastes generated within the region, and to wastes generated within nonparty states when authorized by the commission pursuant to the provisions of this compact. After January 1, 1986, the commission may prohibit the exportation of waste from the region for purposes of management.

m.1. The commission herein established is a legal entity separate and distinct from the party states, capable of acting in its own behalf, and is liable for its actions. Liabilities of the commission shall not be deemed liabilities of the party states. Members of the commission shall not be personally liable for actions taken by them in their official capacity.

2. Except as specifically provided in this compact, nothing in this compact shall be construed to alter the incidence of liability of any kind for any act, omission, course of conduct, or on account of any causal or other relationships. Generators, transporters of wastes, owners and operators of sites shall be liable for their acts, omissions, conduct, or relationships in accordance with all laws relating thereto.

Article V.

Development and Operation of Facilities

a. Any party state which becomes a host state in which a regional facility is operated shall not be designated by the compact commission as a host state for an additional regional facility until each party state has fulfilled its obligation, as determined by the commission, to have a regional facility operated within its borders.

b. A host state desiring to close a regional facility located within its borders may do so only after notifying the commission in writing of its intention to do so and the reasons therefor. Such notification shall be given to the commission at least four (4) years prior to the intended date of closure. Notwithstanding the four-year notice requirement herein provided, a host state is not prevented from closing its facility or establishing conditions of its use and operations as necessary for the protection of the health and safety of its citizens. A host state may terminate or limit access to its regional facility if it determines that Congress has materially altered the conditions of this compact.

c. Each party state designated as a host state for a regional facility shall take appropriate steps to ensure that an application for a license to construct and operate a facility of the designated type is filed with and issued by the appropriate authority.

d. No party state shall have any form of arbitrary prohibition on the treatment, storage or disposal of low-level radioactive waste within its borders.

e. No party state shall be required to operate a regional facility for longer than a twenty-year period, or to dispose of more than thirty-two million (32,000,000) cubic feet of low-level radioactive waste, whichever first occurs.

Article VI.

Other Laws and Regulations

a. Nothing in this compact shall be construed to:

1. Abrogate or limit the applicability of any act of Congress or diminish or otherwise impair the jurisdiction of any federal agency expressly conferred thereon by the Congress;

2. Abrogate or limit the regulatory responsibility and authority of the United States Nuclear Regulatory Commission or of an agreement state under Section 274 of the Atomic Energy Act of 1954 in which a regional facility is located;

3. Make inapplicable to any person or circumstance any other law of a party state which is not inconsistent with this compact;

4. Make unlawful the continued development and operation of any facility already licensed for development or operation on the date this compact becomes effective, except that any such facility shall comply with Article III, Article IV and Article V and shall be subject to any action lawfully taken pursuant thereto;

5. Prohibit any storage or treatment of waste by the generator on its own premises;

6. Affect any judicial or administrative proceeding pending on the effective date of this compact;

7. Alter the relations between, and the respective internal responsibilities of, the government of a party state and its subdivisions;

8. Affect the generation, treatment, storage or disposal of waste generated by the atomic energy defense activities of the Secretary of the United States Department of Energy or federal research and development activities as defined in P.L. 96-573;

9. Affect the rights and powers of any party state and its political subdivisions to regulate and license any facility within its borders or to affect the rights and powers of any party state and its political subdivisions to tax or impose fees on the waste managed at any facility within its borders.

b. No party state shall pass any law or adopt any regulation which is inconsistent with this compact. To do so may jeopardize the membership status of the party state.

c. Upon formation of the compact, no law or regulation of a party state or of any subdivision or instrumentality thereof may be applied so as to restrict or make more inconvenient access to any regional facility by the generators of another party state than for the generators of the state where the facility is situated.

d. Restrictions of waste management of regional facilities pursuant to Article IV(l) shall be enforceable as a matter of state law.

Article VII.

Eligible Parties, Withdrawal, Revocation, Entry into Force, Termination

a. This compact shall have as initially eligible parties the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee and Virginia.

b. Any state not expressly declared eligible to become a party state to this compact in Section (a) of this article may petition the commission, once constituted, to be declared eligible. The commission may establish such conditions as it deems necessary and appropriate to be met by a state wishing to become eligible to become a party state to this compact pursuant to the provisions of this section. Upon satisfactorily meeting such conditions and upon the affirmative vote of two-thirds (⅔) of the commission, including the affirmative vote of both representatives of a host state in which any affected regional facility is located, the petitioning state shall be eligible to become a party state to this compact and may become a party state in the same manner as those states declared eligible in Section (a) of this article.

c. Each state eligible to become a party state to this compact shall be declared a party state upon enactment of this compact into law by the state and upon payment of the fees required by Article IV(h)(1). The commission shall be the judge of the qualifications of the party states and of its members and of their compliance with the conditions and requirements of this compact and the laws of the party states relating to the enactment of this compact.

d.1. The first three (3) states eligible to become party states to this compact which enact this compact into law and appropriate the fees required by Article IV(h)(1) shall immediately, upon the appointment of their commission members, constitute themselves as the Southeast Low-Level Radioactive Waste Management Commission, shall cause legislation to be introduced into the Congress which grants the consent of the Congress to this compact, and shall do those things necessary to organize the commission and implement the provisions of this compact.

2. All succeeding states eligible to become party states to this compact shall be declared party states pursuant to the provisions of Section (c) of this article.

3. The consent of the Congress shall be required for full implementation of this compact. The provisions of Article V(d) shall not become

effective until the effective date of the import ban authorized by Article IV(l) as approved by Congress. The Congress may by law withdraw its consent only every five (5) years.

e. No state which holds membership in any other regional compact for the management of low-level radioactive waste may be considered by the compact commission for eligible state status or party state status.

f. Any party state which fails to comply with the provisions of this compact or to fulfill the obligations incurred by becoming a party state to this compact may be subject to sanctions by the commission, including suspension of its rights under this compact, and revocation of its status as a party state. Any sanction shall be imposed only upon the affirmative vote of at least two-thirds (⅔) of the commission members. Revocation of party state status may take effect on the date of the meeting at which the commission approves the resolution imposing such sanction, but in no event shall revocation take effect later than ninety (90) days from the date of such meeting. Rights and obligations incurred by being declared a party state to this compact shall continue until the effective date of the sanction imposed or as provided in the resolution of the commission imposing the sanction.

The commission must, as soon as practicable after the meeting at which a resolution revoking status as a party state is approved, provide written notice of the action along with a copy of the resolution to the governors, the presidents of the senates, and the speakers of the houses of representatives of the party states, as well as chairmen of the appropriate committees of the Congress.

g. Subject to the provisions of Article VII(h), any party state may withdraw from this compact by enacting a law repealing the compact, provided that if a regional facility is located within such state, such regional facility shall remain available to the region for four (4) years after the date the commission receives verification in writing from the governor of such party state of the rescission of the compact. The commission, upon receipt of the notification, shall, as soon as practicable, provide copies of such notification to the governors, the presidents of the senates, and the speakers of the houses of representatives of the party states, as well as the chairmen of the appropriate committees of the Congress.

h. The right of a party state to withdraw pursuant to Article VII(g) shall terminate thirty (30) days following the commencement of operation of the second host state facility. Thereafter, a party state may withdraw only with the unanimous approval of the commission and with the consent of Congress. For purposes of this section, the low-level radioactive waste disposal facility located in Barnwell County, South Carolina, shall be considered the first host state disposal facility.

i. This compact may be terminated only by the affirmative action of the Congress or by the rescission of all laws enacting the compact in each party state.

Article VIII.

Penalties

a. Each party state, consistently with its own law, shall prescribe and enforce penalties against any person not an official of another state for violation of any provision of this compact.

b. Each party state acknowledges that the receipt by a host state of waste packaged or transported in violation of applicable laws and regulations can result in imposition of sanctions by the host state which may include suspension or revocation of the violator's right of access to the facility in the host state.

Article IX.

Severability and Construction

The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared by a court of competent jurisdiction to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any other government, agency, person or circumstance shall not be affected thereby. If any provision of this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the state affected as to all severable matters. The provisions of this compact shall be liberally construed to give effect to the purposes thereof.

SOURCES: Laws, 1982, ch. 463, § 1; Laws, 1983, ch. 372; Laws, 1988, ch. 308, eff from and after passage (approved April 1, 1988).

Cross References — Authority of State Board of Health to enforce provisions of the Southeast Interstate Low-Level Radioactive Waste Management Compact, see § 45-14-11.

State policies governing storage and disposal of nuclear waste, see §§ 57-49-1 et seq.

Comparable Laws from other States — Alabama Code, §§ 22-32-1 through 22-32-9.

Alabama Code Annotated, §§ 22-32-1 et seq.
Arkansas Code Annotated, §§ 8-8-201 through 8-8-206.
Florida Annotated Statutes, § 404.30.
Georgia Code Annotated, §§ 12-8-120 through 12-8-123.
Louisiana Revised Statutes Annotated, § 30:2131 et seq.
Tennessee Code Annotated, §§ 68-202-701 through 68-202-709.
Texas Health & Safety Code, § 403.001 et seq.
Virginia Code Annotated, §§ 10.1-1500 et seq.

Federal Aspects — Atomic Energy Act of 1954, see 42 USCS §§ 2011 et seq.

Low-Level Radioactive Waste Policy Act, see 42 USCS §§ 2021b et seq.

§ 57-47-3. Membership of commission.

The Governor or his designee and a member of the Mississippi Radiation Advisory Council, established by Section 45-14-7, Mississippi Code of 1972, to be designated by the Governor, shall be the Mississippi members of the Southeast Interstate Low-Level Radioactive Waste Commission. Each member may designate an alternate.

SOURCES: Laws, 1982, ch. 463, § 2; Laws, 1985, ch. 359, eff from and after passage (approved March 19, 1985).

§ 57-47-5. Powers and duties of Governor.

The governor is authorized and empowered to enter into agreements and to perform other necessary acts and deeds incident to the purposes of this compact.

SOURCES: Laws, 1982, ch. 463, § 3, eff from and after passage (approved April 20, 1982).

§ 57-47-7. Budget of commission.

The commission shall submit its budget of estimated expenditures to the legislative budget office for presentation to the Legislature.

SOURCES: Laws, 1982, ch. 463, § 4; Laws, 1984, ch. 488, § 247, eff from and after July 1, 1984.

Cross References — Joint legislative budget committee and legislative budget office generally, see §§ 27-103-101 et seq.

§ 57-47-9. Cooperation by state agencies and officers with commission.

The departments, agencies and officers of the state and its subdivisions are hereby authorized to cooperate with the Southeast Interstate Low-Level Radioactive Waste Commission in the furtherance of any of its activities pursuant to the compact.

SOURCES: Laws, 1982, ch. 463, § 5, eff from and after passage (approved April 20, 1982).

CHAPTER 49

Nuclear Waste Storage and Disposal

Sec.
57-49-1. Transfer of duties of Mississippi Energy and Transportation Board to Department of Environmental Quality; creation of nuclear waste policy advisory council and nuclear waste technical review committee.
57-49-3. Definitions.
57-49-5. General powers and duties of department.
57-49-7. Composition of nuclear waste policy advisory council; qualifications, appointment, terms of office and compensation of members; officers.
57-49-9. General duties of nuclear waste policy advisory council.
57-49-11. Composition of nuclear waste technical review committee; qualifications, appointment, terms of office and compensation of members; officers.
57-49-13. General duties of nuclear waste technical review committee.
57-49-15. Advocacy for citizens before federal agencies.
57-49-17. Promotion and coordination of educational programs.
57-49-19. Review of applications for funds for program related to nuclear waste storage or disposal; disposition.
57-49-21. Monitoring of federal activities related to nuclear waste storage or disposal.
57-49-23. Protection of state's interest in nuclear waste storage or disposal matters through judicial proceedings.
57-49-25. Application for permit to conduct site characterization studies.
57-49-27. Requirement of written agreement between state and federal department of energy prior to initiation of nuclear waste site characterization activities; briefing by federal officials; report by state officials.
57-49-29. Negotiation with federal Department of Energy of agreements related to nuclear waste storage characterizations; hearings and approval of agreements.
57-49-31. Negotiation with federal Department of Energy of agreements relating to different stages for evaluating and selecting site for nuclear waste storage or disposal; contents of agreements.
57-49-33. Agreements and summaries of local hearings to be submitted to Governor.
57-49-35. Review of adequacy of federal Department of Energy site selection and plan; recommendations by board; decision by governor.
57-49-37. Implementation of agreements, modifications and technical revisions.
57-49-39. Funding of expenses.
57-49-41. Assistance from other state agencies.
57-49-43. Construction of chapter.

§ 57-49-1. Transfer of duties of Mississippi Energy and Transportation Board to Department of Environmental Quality; creation of nuclear waste policy advisory council and nuclear waste technical review committee.

The purposes of this chapter are:

(a) To transfer to the Department of Environmental Quality the duties of the Mississippi Energy and Transportation Board with respect to nuclear-related activities within the state.

(b) To clarify the manner in which the Department of Environmental Quality shall perform its duty to develop, coordinate and review all nuclear-related activities in the state.

In order to assist and advise the Department of Environmental Quality in the implementation of this duty, there is hereby created a nuclear waste policy advisory council and a nuclear waste technical review committee.

SOURCES: Laws, 1982, ch. 474, § 1; Laws, 1989, ch. 544, § 136, eff from and after July 1, 1989.

Cross References — Additional provisions relative to radioactive waste storage and disposal facilities, see §§ 17-17-48 through 17-17-51.

Department of Environmental Quality, see §§ 49-2-1 et seq.

Membership and duties of nuclear waste policy advisory council, see §§ 57-49-7, 57-49-9.

Membership and duties of nuclear waste technical review committee, see §§ 57-49-11, 57-49-13.

RESEARCH REFERENCES

ALR. Tort liability for nonmedical radiological harm. 73 A.L.R.4th 582.

§ 57-49-3. Definitions.

Unless the context otherwise requires, the words defined in this section shall have the following meaning when found in this chapter:

(a) "Department" and "board" shall mean the Department of Environmental Quality.

(b) "Committee" shall mean the nuclear waste technical review committee.

(c) "Concurrence" shall mean an incremental process involving an increase in public confidence and the development of a technical, social and political consensus that the nuclear waste management program can be accomplished with minimal risks to public health and safety and with acceptable socioeconomic costs.

(d) "Consultation" shall mean the sharing of information on planned nuclear waste programs and activities and the right of others to review, comment and offer recommendations on such activities.

(e) "Council" shall mean the nuclear waste policy advisory council.

(f) "Federal Department of Energy" shall mean the federal Department of Energy or any successor agency, including contractors or subcontractors thereto, which is assigned responsibility for the long-term or temporary storage or permanent disposal of high-level radioactive waste and transuranic waste.

(g) "High-level radioactive waste" shall mean (a) fuel that is withdrawn from a nuclear reactor after irradiation and which is packaged and prepared for storage and/or disposal, or highly radioactive waste resulting from reprocessing irradiated nuclear fuel, including both the liquid waste which is produced directly in reprocessing and any solid material into which the liquid waste is transformed, and which is packaged for storage and/or disposal; or (b) other highly radioactive material that the United States Nuclear Regulatory Commission, consistent with existing law, determines by rule requires permanent isolation.

(h) "Transuranic waste" shall mean waste material containing alpha-emitting radioactive elements having an atomic number greater than ninety-two (92) in concentrations greater than ten (10) nanocuries per gram.

(i) "Densely populated area" shall mean any area in which more than five hundred (500) people reside within a five-mile radius of the outer boundary of a proposed site of a permanent repository for the disposal of radioactive waste.

(j) "State-chartered public interest group" shall mean any nonprofit organization chartered by the state. No organization shall have a direct financial interest in the outcome of the decisions of the council, or be directly related to state or federal government, nor shall an electric utility corporation or its subsidiaries be included in said term.

SOURCES: Laws, 1982, ch. 474, § 2; Laws, 1983, ch. 505, § 1; Laws, 1989, ch. 544, § 137, eff from and after July 1, 1989.

§ 57-49-5. General powers and duties of department.

(1) The department shall serve as the initial agency in this state to be contacted by the federal department of energy or any other federal agency on any matter related to the long-term or temporary storage and/or permanent disposal of high-level radioactive waste or transuranic waste.

(2) The department shall serve as the initial agency in this state to receive any report, study, document, information or notification of proposed plans from the federal department of energy or any other federal agency on any matter related to the long-term or temporary storage and/or permanent disposal of high-level radioactive waste or transuranic waste. Notification of proposed plans include notification of proposals to conduct field work, on-site evaluation, on-site testing or any other related studies.

(3) The department shall disseminate or arrange with the federal department of energy or other federal agency to disseminate information received under subsection (2) of this section to the council, the committee, appropriate state agencies, appropriate local units of government and interested citizen groups.

(4) The department, in accordance with the recommendations and advice of the council and committee, shall respond to contacts made under subsection (1) of this section and information received under subsection (2) of this section if a response is appropriate. The department may consult with the council, the committee, and with appropriate state agencies and local units of government. The council and the committee shall prepare written comments for use by the department in preparing its response.

(5) The department, in consultation with the council and the committee, is authorized to promulgate all rules and regulations and to establish all procedures necessary to enable it to discharge its duties and powers under this chapter and to carry out the purposes and objectives of this chapter. This authority shall include, but shall not be limited to, the establishment of procedures regarding the issuance of any permits the department may require for any type of testing to be conducted in connection with evaluating and selecting a site for the long-term or temporary storage and/or permanent disposal of high-level radioactive waste or transuranic waste.

SOURCES: Laws, 1982, ch. 474, § 3; Laws, 1989, ch. 544, § 138, eff from and after July 1, 1989.

§ 57-49-7. Composition of nuclear waste policy advisory council; qualifications, appointment, terms of office and compensation of members; officers.

The Nuclear Waste Policy Advisory Council hereby created and hereinafter referred to as the "council" shall exercise the powers and duties and discharge the responsibilities enumerated herein. The council shall consist of the following members, each of whom shall be a qualified elector.

Two (2) members shall be appointed by the Speaker of the House of Representatives from among the membership of the House; two (2) members shall be appointed by the Lieutenant Governor from among the membership of the Senate; four (4) members shall be appointed by the Governor or his designee, one (1) of whom shall be a member of the Governor's staff, one (1) of whom shall be a member of a statewide, chartered, public interest group, one (1) of whom shall be a resident from the various counties, except Perry County, which comprise the Fifth Congressional District of the State of Mississippi as it exists on the date of the passage of this chapter and one (1) of whom shall be from Perry County at large; one (1) member who shall be the Executive Director of the Department of Environmental Quality or his designee; one (1) member who shall be the Attorney General or his staff designee and who shall serve in a nonvoting capacity; one (1) member shall be appointed by the Perry County Board of Supervisors from among the nongovernmental members of the general public legally residing in Perry County; and one (1) member shall be appointed by the Town of Richton Board of Aldermen from among the nongovernmental members of the general public legally residing in the Town of Richton, Perry County, Mississippi; one (1) member shall be appointed by the New Augusta Board of Aldermen from among the nongovernmental members of the general public legally residing in the Town of New Augusta, Perry County, Mississippi; one (1) member shall be appointed by the Beaumont Board of Aldermen from among the nongovernmental members of the general public legally residing in Beaumont, Perry County, Mississippi; and one (1) member shall be appointed by the board of supervisors of each county in the State of Mississippi wherein an operational commercial nuclear facility is located. A chairman and a secretary shall be elected annually from among the membership of the council.

The members shall be appointed to serve terms of two (2) years. Vacancies in office shall be filled by appointment in the same manner as the original appointment to the position which becomes vacant. An appointment to fill a vacancy other than by expiration of a term of office shall be for the balance of the unexpired term.

The members of the council shall receive reimbursement for mileage and actual expenses incurred in the performance of their duties at the rate authorized by Section 25-3-41. Members of the council who are state employees shall be reimbursed for those expenses incurred which are authorized by Section 25-3-41.

Provided that funding is available under Section 57-49-39, the members of the council shall receive per diem compensation at the rate authorized by Section 25-3-69 for each day spent in the actual discharge of their duties when attending a meeting of the council.

SOURCES: Laws, 1982, ch. 474, § 4; Laws, 1986, ch. 340; Laws, 1989, ch. 544, § 139, eff from and after July 1, 1989.

Cross References — Attorney General, generally see §§ 7-5-1 et seq.

Duties of nuclear waste policy advisory council, see § 57-49-9.

Source of funds for payment of per diem and expenses under this section, see § 57-49-39.

§ 57-49-9. General duties of nuclear waste policy advisory council.

The responsibilities and duties of the council shall include, but not be limited to, the following:

(a) To recommend state nuclear waste policy to the board and advise the board on any matters relating to state nuclear waste policy, including matters to be addressed in memorandums of understanding and other agreements with the federal department of energy.

(b) To recommend legislative proposals related to nuclear waste for consideration by the state legislature.

(c) To review all data, plans, conclusions and other documents produced by the federal department of energy, which relate to any phase of high-level nuclear waste programs or activities.

(d) To hear and evaluate public comment and make recommendations based thereon to the board and the state legislature.

(e) To advise the board on socio-economic issues which impact on affected areas as a result of activities proposed or conducted under the authority of this chapter.

(f) To critically review and comment on any socio-economic impact statements, studies, or lack of such, and transportation risks and concerns.

SOURCES: Laws, 1982, ch. 474, § 5, eff from and after passage (approved April 21, 1982).

§ 57-49-11. Composition of nuclear waste technical review committee; qualifications, appointment, terms of office and compensation of members; officers.

The Nuclear Waste Technical Review Committee hereby created and hereinafter referred to as the "committee" shall exercise the powers and duties and discharge the responsibilities enumerated herein.

The committee shall originally consist of eight (8) members, one (1) of whom shall be the Executive Director of the Department of Wildlife, Fisheries and Parks, one (1) of whom shall be Director of the Emergency Management Agency, one (1) of whom shall be the State Health Officer, one (1) of whom shall be the Commissioner of Higher Education, one (1) of whom shall be the Chairman of the Board of Trustees of State Institutions of Higher Learning, one (1) of whom shall be the Executive Director of the Department of Environmental Quality, one (1) of whom shall be the staff member responsible for the Nuclear Waste Program within the Department of Environmental Quality who shall serve as secretary in a nonvoting capacity, and one (1) of whom shall be the Executive Director of the Department of Economic Development. The chairman shall be elected from among the membership of the committee.

Committee members shall be permitted to designate substitute or alternate members to act in their stead, should they be unable to assume the responsibility of serving on the committee. The committee, by a majority vote of its membership, may recommend to the chairman that additional appointments should be made to the committee from other state agencies and the chairman shall make such appointments.

The members of the committee shall receive reimbursement for mileage and actual expenses incurred in the performance of their duties at the rate authorized by Section 25-3-41. Members of the committee who are state employees shall be reimbursed for those expenses incurred which are authorized by Section 25-3-41.

Provided that funding is available under Section 57-49-39, the members of the committee shall receive per diem compensation at the rate authorized by Section 25-3-69 for each day spent in the actual discharge of their duties when attending a meeting of the committee.

SOURCES: Laws, 1982, ch. 474, § 6; Laws, 1988, ch. 518, § 63; Laws, 1989, ch. 544, § 140, eff from and after July 1, 1989.

Editor's Note — Section 57-1-2 provides that executive director of the Mississippi Department of Economic Development shall mean the executive officer of the Mississippi Department of Economic and Community Development.

Cross References — Director of emergency management agency generally, see § 33-15-7.

President of board of trustees of state institutions of higher learning generally, see § 37-101-7.

Executive director of Department of Wildlife, Fisheries and Parks, see § 49-1-1.

Executive director of Department of Environmental Quality, see § 49-2-4.

Duties of nuclear waste technical review committee, see § 57-49-13.

Source of funds for payment of per diem and expenses under this section, see § 57-49-39.

§ 57-49-13. General duties of nuclear waste technical review committee.

The responsibilities and duties of the committee shall include, but not be limited to, the following:

(a) To advise the Department of Environmental Quality on all technical matters related to high-level nuclear waste activities within the state.

(b) To assist and advise in formulating studies, plans and other implementations of the state nuclear waste program.

(c) To assist in the implementation of directives of the state nuclear waste program.

(d) To perform a critical review of all data and documents produced by the federal Department of Energy which related to any phase of high-level nuclear waste activities and submit comments on same to the Department of Environmental Quality.

(e) To provide technical information to the Attorney General of the State of Mississippi and the State Legislature which will assist their efforts to assure the health, safety, and welfare of the citizens of the State of Mississippi.

(f) To perform initial review of all applications for permits to conduct nuclear waste related activities within the state. Such review, to be completed within ninety (90) days, would determine if the application is in compliance with the requirements of this chapter. Upon completion of such review, the committee shall either:

(i) File the application with the Department of Environmental Quality for its consideration, and thereafter, the department will deny, grant, or grant with certain conditions, requirements and stipulations a permit to conduct the applied for nuclear waste activities; or

(ii) Notify the applicant that the requirements of this chapter have not been met or satisfactorily completed and return the application for resubmittal. Such notification to applicants shall include a listing of deficiencies in complying with application procedures. Provided, however, the applicant may reapply by submitting the original application with amendments listing provisions which satisfy previous deficiencies in the application.

SOURCES: Laws, 1982, ch. 474, § 7; Laws, 1989, ch. 544, § 141, eff from and after July 1, 1989.

§ 57-49-15. Advocacy for citizens before federal agencies.

The board, the council and the committee shall serve as advocates on behalf of the citizens of this state before the federal department of energy and other federal agencies on matters related to the long-term or temporary storage and/or permanent disposal of high-level radioactive waste and transuranic waste.

SOURCES: Laws, 1982, ch. 474, § 8, eff from and after passage (approved April 21, 1982).

§ 57-49-17. Promotion and coordination of educational programs.

The board shall promote and coordinate educational programs which provide information on the nature of high-level radioactive waste and transuranic waste, the long-term or temporary storage and/or permanent disposal of these wastes, the activities of the board, the council and the committee, the activities of the federal Department of Energy and other federal agencies related to the long-term or temporary storage and/or permanent disposal of high-level radioactive waste and transuranic waste.

SOURCES: Laws, 1982, ch. 474, § 9, eff from and after passage (approved April 21, 1982).

Cross References — Agreement for federal Department of Energy to provide funding for educational programs required by this section, see § 57-49-31.

§ 57-49-19. Review of applications for funds for program related to nuclear waste storage or disposal; disposition.

The board, in consultation with the council and the committee, shall review any application to the federal department of energy, other federal agency, or contractor thereof, by a state agency, including the state institutions of higher learning, a local unit of government, or a regional planning and development district for funds for any program related to the long-term or temporary storage and/or permanent disposal of high-level radioactive waste or transuranic waste. If the board finds that the application is not consistent with the state's nuclear waste policy or that the application is not in the best interests of the state, the board, in accordance with the council and the committee, shall forward its findings to the governor, the legislative committees on conservation and water resources in the house of representatives and on public health and welfare in the senate, and the federal agency to which the application for funds is being made. If the board finds that the application of a state agency is not consistent with the state's nuclear waste policy or that the application of a state agency is not in the best interests of the state, the findings forwarded to the governor shall include a recommendation that the governor take action necessary to safeguard the interests of the state by stipulating certain conditions for the acceptance of the funds.

SOURCES: Laws, 1982, ch. 474, § 10, eff from and after passage (approved April 21, 1982).

§ 57-49-21. Monitoring of federal activities related to nuclear waste storage or disposal.

The board, through the council and the committee, shall monitor activity by Congress and the federal government related to the long-term or temporary storage and/or permanent disposal of high-level radioactive waste and transuranic waste. The board, upon recommendation of the council, may advise the congressional delegation from this state of action which is necessary to protect the interests of the state.

SOURCES: Laws, 1982, ch. 474, § 11, eff from and after passage (approved April 21, 1982).

§ 57-49-23. Protection of state's interest in nuclear waste storage or disposal matters through judicial proceedings.

In appropriate cases, the board upon recommendation of the council shall request the state Attorney General to institute or intervene in judicial proceedings to protect the state's interests and present the state's point of view on matters related to the long-term or temporary storage and/or permanent disposal of high-level radioactive waste or transuranic waste.

SOURCES: Laws, 1982, ch. 474, § 12, eff from and after passage (approved April 21, 1982).

RESEARCH REFERENCES

ALR. Tort liability for nonmedical radiological harm. 73 A.L.R.4th 582.

§ 57-49-25. Application for permit to conduct site characterization studies.

An application for a permit to conduct site characterization studies which shall be filed pursuant to this chapter shall contain the following information and materials:

(a) A description of the proposed activities, including maps, present and proposed development, and geological, seismic, ecological, hydrological, biological, aesthetic, social, demographic and related data as appropriate;

(b) A statement of the ownership and other financial interests in the facility;

(c) An estimate of the costs of the proposed activities, if any, and the source of the funds therefor;

(d) A statement of the need for the proposed activities, including the sources, type, and composition of the nuclear waste proposed to be received for storage at the facility;

(e) A plan for decontamination and decommissioning of the facility and the possibility of restoration of the site to unrestricted use, including the costs thereof and the source of the funds therefor;

(f) An assessment of the environmental impacts of the proposed action, including the preparation of a formal environment assessment, such assessment to include at a minimum:

(1) An evaluation by the secretary of the United States Department of Energy of the suitability of such site for site characterization pursuant to guidelines promulgated pursuant to Section 112(a) of P.L. 97-425;

(2) An evaluation of the short-term and long-term environmental effects and proposed mitigation measures proposed to minimize those effects;

(3) An evaluation of any adverse environmental effects which could not be avoided during the site characterization activities;

(4) An evaluation by the secretary as to whether such candidate site is suitable for development as a repository under each such guideline that does not require site characterization as a prerequisite for application of such guideline;

(5) An evaluation by the secretary of the effects of the site characterization activities at such candidate site on the public health and safety and the environment;

(6) A reasonable comparative evaluation by the secretary of such candidate site with other sites and locations that have been considered;

(7) A description of the decision process by which such candidate site was recommended; and

(8) An assessment of the regional and local impacts of locating the proposed repository at such candidate site.

(g) An assessment of the safety and adequacy of in-state transportation access to the site for construction and maintenance purposes;

(h) A disposal plan and assured funding mechanism for the nuclear waste proposed to be stored at the facility, including the costs of such disposal and the source of the funds therefor; and

(i) A complete survey by the applicant of its expertise and experience in all other fields of study in relation to high-level radioactive waste disposal, to include the general conclusions and technical results and findings of those activities.

SOURCES: Laws, 1982, ch. 474, § 13; Laws, 1983, ch. 505, § 2, eff from and after passage (approved April 12, 1983).

Federal Aspects — Section 112 of P.L. 97-425, see 42 USCS § 10132.

§ 57-49-27. Requirement of written agreement between state and federal department of energy prior to initiation of nuclear waste site characterization activities; briefing by federal officials; report by state officials.

Prior to the initiation of nuclear waste site characterization activities, the board shall require that a written agreement between the federal department of energy and the state shall be concluded in accordance with the provisions of Sections 57-49-29 through 57-49-33.

At the completion of site characterization, including area characterization, and prior to the initiation of any subsequent phase of investigation, the federal department of energy shall prepare and administer an oral briefing for the board, the council, the committee, interested members of the state legislature and the governor's office, collectively, in which a synopsis of the previously completed study phase is detailed. The briefing shall include, at a minimum, the significant findings of the study, including those findings which could possibly compromise the site(s) from being developed into a repository for the long-term or temporary storage and/or permanent disposal of high-level radioactive waste or transuranic waste. Any noted deficiencies in the data base, interpretation thereof, conclusions thereto or recommendations therefrom, cited in writing by the technical community of the state or recorded in public hearings in the state, shall be addressed in the briefing. The methods by which those deficiencies were resolved or are to be addressed shall be identified by the department of energy during the briefing. The council and the committee shall determine the adequacy of resolution of the noted deficiencies and shall prepare a written report of their findings to the board. If the findings of the council and the committee and the recommendation of the board indicate inadequate identification of deficiencies and/or inadequate resolution of same, the board may recommend a conflict resolution procedure outlined in the agreement be initiated.

SOURCES: Laws, 1982, ch. 474, § 14; Laws, 1983, ch. 505, § 3, eff from and after passage (approved April 12, 1983).

§ 57-49-29. Negotiation with federal Department of Energy of agreements related to nuclear waste storage characterizations; hearings and approval of agreements.

(1) The board shall serve as the agency in this state to negotiate written nuclear waste site characterization agreements and modifications and/or technical revisions to these agreements, with the federal Department of Energy on any matter related to the long-term or temporary storage and/or permanent disposal of high-level radioactive waste or transuranic waste.

(2) The board shall serve as the agency in this state to negotiate such written agreements and modifications and/or technical revisions to these agreements, with any federal agency other than the federal Department of

Energy on any matter related to the long-term or temporary storage and/or permanent disposal of high-level radioactive waste or transuranic waste.

(3) The board shall consult with the council and the committee during the negotiation of any agreement or modification and/or technical revisions to an agreement executed under subsections (1) or (2) of this section. The council and the committee shall prepare such written comments on any agreement or draft agreement being negotiated by the board as is appropriate and needed.

(4) The board in concert with the council shall hold at least one (1) public hearing within the county or counties wherein the site is located on any proposed agreement or modification and/or technical revision to an agreement negotiated under subsection (1) or (2) of this section. The board shall issue thirty (30) days' notice of the day and location of hearings conducted under this subsection. The board shall prepare a written summary of testimony presented at hearings conducted under this subsection and shall consider the need for modifications or technical revisions to the negotiated agreement as a result of the hearing(s).

(5) No agreement or modification and/or technical revision to an agreement negotiated under subsection (1) or (2) may take effect unless it is approved by a majority of the members of the board.

SOURCES: Laws, 1982, ch. 474, § 15, eff from and after passage (approved April 21, 1982).

Cross References — Requirement for prior written agreements and procedures governing site characterization activities, see § 57-49-27.

Contents of agreement negotiated pursuant to this section, see § 57-49-31.

Submission to Governor written agreements and summaries of local hearings under this section, see § 57-49-33.

§ 57-49-31. Negotiation with federal Department of Energy of agreements relating to different stages for evaluating and selecting site for nuclear waste storage or disposal; contents of agreements.

(1) The board shall negotiate separate agreements with the federal Department of Energy concerning different stages of the process of evaluating and selecting a site for the long-term or temporary storage and/or permanent disposal of high-level radioactive waste or transuranic waste. The board shall negotiate a separate agreement with the federal Department of Energy for the final states of the selection of any site for the long-term or temporary storage and/or permanent disposal of high-level radioactive waste or transuranic waste.

(2) Any agreement negotiated by the board with the federal Department of Energy under Section 57-49-29 shall include, but not be limited to:

(a) A specification of those procedures:

(i) By which the state may study, determine, comment on, and make recommendations with regard to the possible public health and safety, environmental, social, and economic impacts of any such facility for the long-term or temporary storage and/or permanent disposal of high-level radioactive waste or transuranic waste;

(ii) By which the secretary of energy shall consider and respond to comments and recommendations made by the state, including the period in which the secretary shall so respond;

(iii) By which the secretary of energy and the state may review and/or modify the agreement periodically;

(iv) By which the state is to submit an impact report and request for impact assistance;

(v) By which the secretary of energy shall assist the state and the units of general local government in the vicinity of the site under consideration for the long-term or temporary storage and/or permanent disposal of high-level radioactive waste or transuranic waste, in resolving the offsite concerns of the state and units of general local government, including, but not limited to, questions of state liability arising from accidents, necessary road upgrading and access to the site, ongoing emergency preparedness and emergency response, monitoring of transportation of high-level radioactive waste and spent nuclear fuel through the state, conduct of baseline health studies of inhabitants in neighboring communities near the site and reasonable periodic monitoring thereafter, and monitoring of said site upon any decommissioning and decontamination;

(vi) By which the secretary of energy shall consult and cooperate with the state on a regular, ongoing basis and provide for an orderly process and timely schedule for state review and evaluation, including identification in the agreement of key events, milestones, and decision points in the activities of the secretary of energy at the potential site;

(vii) By which the secretary of energy shall notify the state prior to the transportation of any high-level radioactive waste and spent nuclear fuel into or through the state;

(viii) By which the state may conduct reasonable independent monitoring and testing of activities on the site, except that such monitoring and testing shall not unreasonably interfere with or delay onsite activities;

(ix) For sharing, in accordance with applicable law, of all technical and licensing information, the utilization of available expertise, the facilitating of permit procedures, joint project review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable federal and state laws;

(x) For public notification of the procedures specified under the preceding subparagraphs; and

(xi) For resolving objections of the state at any state of the planning, siting and development of any facility for the long-term or temporary storage or permanent disposal of high-level radioactive waste or transuranic waste within the state.

(b) The criteria that the federal Department of Energy shall use in evaluating the suitability of any site in the state for the long-term or temporary storage and/or permanent disposal of high-level radioactive waste or transuranic waste;

(c) A requirement that the federal Department of Energy shall comply with all federal laws, state laws and local ordinances and shall respect state sovereignty consistent with the United States Constitution and the Tenth Amendment, regardless of the ownership of the land on which the activity takes place;

(d) A requirement that the federal Department of Energy and any of its contractors or subcontractors shall provide the board with all reports and documents the board requests and any other relevant reports and documents in a timely manner and in accordance with any applicable law, regulation or rule. The requirement shall specify that the federal Department of Energy may not charge a fee for searching for or for supplying reports and documents requested by the board. The requirement shall specify that the federal Department of Energy shall provide the board with all reports and documents the board requests and any other relevant reports and documents from contractors and subcontractors after the reports and documents are submitted to the federal Department of Energy regardless of whether the reports and documents have received the final approval of the department of energy;

(e) A requirement that, upon request by the board, the federal Department of Energy shall provide the data, methods and underlying assumptions used in the preparation of reports and documents in accordance with any applicable law, regulation or rule;

(f) A requirement that the federal Department of Energy shall notify the board of any grants related to the long-term or temporary storage and/or permanent disposal of high-level radioactive waste and transuranic waste from the federal Department of Energy to any person in this state;

(g) A requirement that the federal Department of Energy shall notify the board in a timely manner of any proposed field work, on-site evaluation, on-site testing or similar activities it or any contractor or subcontractor intends to conduct and a requirement that the federal Department of Energy shall allow the board to monitor these activities by any appropriate means;

(h) A requirement that the federal Department of Energy shall provide the board in a timely manner with a copy of any requests for proposals and final contracts issued by the federal Department of Energy relating to the evaluation, selection or construction of a site for the long-term or temporary storage and/or permanent disposal of high-level radioactive waste or transuranic waste in this state;

(i) A provision that the federal Department of Energy shall agree to provide funds to be used to provide educational programs as set forth in Section 117 of P.L. 97-425, and to review the activities of the federal Department of Energy and its contractors and subcontractors which relate to assessing the suitability of the site(s) for the long-term or temporary storage and/or permanent disposal of high-level radioactive waste or transuranic waste;

(j) A requirement that the federal Department of Energy and the board shall identify impacts associated with studies related to the characterization of an area or site(s) for its potential as a repository or the impacts associated with the development of a site as a repository for the long-term or temporary storage and/or permanent disposal of high-level radioactive waste or transuranic waste and that the federal Department of Energy will provide a mechanism to mitigate those impacts;

(k) A requirement that if the federal Department of Energy selects a site in the state for construction of a repository for the long-term or temporary storage and/or permanent disposal of high-level radioactive waste or transuranic waste, the federal Department of Energy shall prepare, prior to submission of an application to license or construct the repository, a repository plan which shall include descriptions of the federal Department of Energy's plans for construction of the repository, transportation of wastes to the repository, operation of the repository, closing of the repository and monitoring the repository after closure;

(*l*) A requirement that the location of any site for the long-term or temporary storage and/or permanent disposal of high-level radioactive or transuranic waste shall not be in a highly populated area.

(3) Any agreement negotiated by the board with the federal Department of Energy under Section 57-49-29 shall include a provision which acknowledges the authority of the Governor or the Legislature to object to the selection of a site within this state for the long-term or temporary storage and/or permanent disposal of high-level radioactive waste and transuranic waste.

(4) Any agreement negotiated by the board with the federal Department of Energy shall be in compliance with the requirements or standards prescribed in this section.

SOURCES: Laws, 1982, ch. 474, § 16; Laws, 1983, ch. 505, § 4, eff from and after passage (approved April 12, 1983).

Cross References — Requirement for prior written agreements and procedures governing site characterization activities, see § 57-49-27.

Review of federal Department of Energy site selection and plan, see § 57-49-35.

Federal Aspects — Section 117 of P.L. 97-425, see 42 USCS § 10137.

§ 57-49-33. Agreements and summaries of local hearings to be submitted to Governor.

The board shall submit any written agreement or modification or technical revision to an agreement negotiated under Section 57-49-29, and approved by the board and approved by the federal Department of Energy or other federal agency, to the governor, through the council. The board shall submit with the agreement, modification or technical revision a written summary of the hearings held under Section 57-49-29.

SOURCES: Laws, 1982, ch. 474, § 17, eff from and after passage (approved April 21, 1982).

Cross References — Requirement for prior written agreements and procedures governing site characterization activities, see § 57-49-27.

§ 57-49-35. Review of adequacy of federal Department of Energy site selection and plan; recommendations by board; decision by governor.

(1) If the federal Department of Energy selects a site in the state for construction of a repository for the long-term or temporary storage and/or permanent disposal of high-level radioactive waste or transuranic waste, the board shall review the adequacy of the selected site and of the site plan prepared by the federal Department of Energy pursuant to Section 57-49-31(2)(k). The review shall include a full scientific review of the adequacy of the selected site and the site plan. The board shall solicit written comments on the selected site and the site plan from the council and the committee. The board may utilize recognized experts in conducting its scientific review. The board shall conduct at least one (1) public hearing in the affected county on the site plan and shall make available to the public arguments and evidence for and against the site plan. The board shall provide ten (10) days' notice of the date and location(s) of the public hearing(s). The board shall solicit comments from appropriate state agencies, local units of government, and interested citizen groups on the adequacy of the selected site and the site plan. The board shall make these comments available to the public.

(2) After completing this review, the board shall submit a recommendation, complete with supporting reasons for the recommendation, to the speaker of the house of representatives, the lieutenant governor and the Governor on the issue of whether the state should accept the site and site plan selected by the federal Department of Energy. The Governor and/or members of the Legislature, after review of the recommendation and findings of the board, may confer with the board, council, committee, representatives of state agencies, institutions of higher learning and/or representatives of the affected county or locality. The Governor shall thereafter determine the advisability of such facility at the proposed site. If the Governor's decision, after such consultations, is not favorable to the establishment of the nuclear waste disposal site, he shall notify the Legislature of that decision and either the Governor or the Legislature shall prepare and transmit to the speaker of the United States House of Representatives and the president pro tempore of the United States Senate a notice of disapproval of the site recommendation. The notice of disapproval shall contain a statement of those reasons for objection to the site recommendation. All such disposal or storage shall be made in strict adherence to guidelines established by the federal government, the division of radiological health of the state Board of Health, the Mississippi Emergency Management Agency and the provisions of this section.

SOURCES: Laws, 1982, ch. 474, § 18; Laws, 1983, ch. 505, § 5, eff from and after passage (approved April 12, 1983).

Cross References — Mississippi Emergency Management Agency, see § 33-15-7.

§ 57-49-37. Implementation of agreements, modifications and technical revisions.

The board, in consultation with the committee and council, shall implement all agreements, modifications and technical revisions approved pursuant to this chapter. In doing so, the board may solicit the views of appropriate state agencies, local units of government, and interested citizen groups.

SOURCES: Laws, 1982, ch. 474, § 19, eff from and after passage (approved April 21, 1982).

§ 57-49-39. Funding of expenses.

The board shall attempt to finance all of its expenses from monies received from the federal Department of Energy and other federal agencies and from gifts and grants received from other persons. Expenses of the council and committee members to attend meetings shall be reimbursed by the board from these funds at the rates set forth in Sections 57-49-7 and 57-49-11.

SOURCES: Laws, 1982, ch. 474, § 20, eff from and after passage (approved April 21, 1982).

§ 57-49-41. Assistance from other state agencies.

The board shall rely on the expertise of staff in other state agencies to assist the board in its duties whenever possible and these other state agencies shall assist the board as much as possible in fulfilling its duties.

SOURCES: Laws, 1982, ch. 474, § 21, eff from and after passage (approved April 21, 1982).

§ 57-49-43. Construction of chapter.

Nothing in this chapter shall be interpreted by the federal government or the federal Department of Energy as an expression by the people of this state to accept the establishment of a site for the long-term or temporary storage and/or permanent disposal of high-level radioactive waste or transuranic waste.

SOURCES: Laws, 1982, ch. 474, § 22, eff from and after passage (approved April 21, 1982).

CHAPTER 51

Enterprise Zones
[Repealed]

§§ 57-51-1 through 57-51-15. Repealed.

Repealed by Laws, 1989, ch. 524, § 32, eff from and after July 1, 1989.

§§ 57-51-1 and 57-51-3. [Laws, 1983, ch. 491, §§ 1, 2]

§ 57-51-5. [Laws, 1983, ch. 491, § 3; Laws, 1988, ch. 494, § 1; Laws, 1988, ch. 518, § 64]

§ 57-51-7. [Laws, 1983, ch. 491, § 4; Laws, 1989, ch. 544, § 42]

§§ 57-51-9 through 57-51-13. [Laws, 1983, ch. 491, §§ 5-7]

§ 57-51-15. [Laws, 1983, ch. 491, § 8; Laws, 1988, ch. 494, § 2]

Editor's Note — Former §§ 57-51-1 through 57-51-15 provided for the Mississippi Enterprise Zone Act.

Laws of 1983, ch. 491, § 11, eff from and after July 1, 1983, provides as follows:

"SECTION 11. This act shall take effect and be in force from and after July 1, 1983, and shall stand repealed from and after June 30, 1989; provided, however, that the repeal of this act shall not affect the terms under which any exemption is granted pursuant to this act prior to such repeal or the terms of any contract executed pursuant to the provisions of this act, unless otherwise specifically provided by the terms of such contract."

Laws of 1988, ch. 494, § 3, eff from and after June 30, 1989, provides as follows:

"SECTION 3. This act shall take effect and be in force from and after its passage, and shall stand repealed from and after June 30, 1989; provided, however, that the repeal of this act shall not affect the terms under which any exemption is granted pursuant to this act prior to such repeal or the terms of any contract executed pursuant to the provisions of this act, unless otherwise specifically provided by the terms of such contract."

Laws of 1989, ch. 524, § 32, eff from and after July 1, 1989, provides in part as follows:

"SECTION 32. With respect to any corporation, person or other entity determined prior to July 1, 1989, by the Department of Economic Development to be a qualified business, as defined in [former] Section 57-51-5(f), the repeal provided by this section shall not affect the terms upon which either any tax credit described in [former] Section 57-51-13(b) and Section 27-7-22(1) is granted to said qualified business pursuant to official action by the Department of Economic Development prior to July 1, 1989, or any sales or use tax exemption described in [former] Section 57-51-13(a) and Section 27-65-101 is granted to said qualified business pursuant to official action by the Department of Economic Development prior to July 1, 1989, and these as well as any other special tax incentives or financial assistance shall continue in full force and effect for the period of time for which they were granted by said official action of the Department of Economic Development."

Laws of 1989, ch. 524, § 36, provides as follows:

"SECTION 36. The repeal or amendment of this act shall not reduce the terms of any tax reduction, special tax incentive or financial assistance agreed upon pursuant to official action by the Department of Economic Development, the State Tax Commission or other appropriate agency of the state or political subdivision thereof prior to the effective date of such repeal or amendment."

CHAPTER 53

Corporate Headquarters Incentive Program [Repealed]

§ 57-53-1. Repealed.

Repealed by Laws, 1989, ch. 524, § 33, eff from and after July 1, 1989. [Laws, 1986, ch. 410, § 1; Laws, 1988, ch. 518, § 65]

Editor's Note — Former § 57-53-1 provided for tax credits and tax exemptions for multistate companies which established or expanded its corporate headquarters facilities in Mississippi.

A prior Chapter 53, consisting of §§ 57-53-1 through 57-53-15 [Laws of 1983, ch. 475, §§ 1-8], pertained to high-technology industrial zones, and was repealed by Laws of 1984, ch, 381, § 9, effective from and after July 1, 1984.

Laws of 1986, ch. 410, § 4, effective July 1, 1986, provides as follows:

"SECTION 4. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the Mississippi sales, use or income tax laws prior to the date on which this act becomes effective, whether such assessments, appeals, suits, claims or actions shall have been begun before the date on which this act becomes effective or shall thereafter be begun; and the provisions of the Mississippi sales, use and income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and executing of any warrant thereunder prior to the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply therewith."

Laws of 1989, ch. 524, § 32, provides as follows:

"SECTION 32. With respect to any corporation, person or other entity determined prior to July 1, 1989, by the Department of Economic Development to be a qualified company, as described in [former] Section 57-53-1(1), the repeal provided by this section shall not affect the terms upon which either any tax credit described in [former] Section 57-53-1(1)(a) and Section 27-7-22(3) is granted to said qualified company pursuant to official action by the Department of Economic Development prior to July 1, 1989, or any sales or use tax exemption described in [former] Section 57-53-1(1)(b) and Section 27-65-101 is granted to said qualified company pursuant to official action by the Department of Economic Development prior to July 1, 1989, and these as well as any other special tax incentives or financial assistance shall continue in full force and effect for the period of time for which they were granted by said official action of the Department of Economic Development."

Laws of 1989, ch. 524, § 36, provides as follows:

"SECTION 36. The repeal or amendment of this act shall not reduce the terms of any tax reduction, special tax incentive or financial assistance agreed upon pursuant to official action by the Department of Economic Development, the State Tax Commission or other appropriate agency of the state or political subdivision thereof prior to the effective date of such repeal or amendment."

CHAPTER 54

Advanced Technology Initiative [Repealed]

§§ 57-54-1 through 57-54-11. Repealed.

Repealed by Laws, 1989, ch. 524, § 34, eff from and after July 1, 1989.

§§ 57-54-1 and 57-54-3. [Laws, 1984, ch. 381, §§ 1, 2]

§ 57-54-5. [Laws, 1984, ch. 381, § 3; Laws, 1985, ch. 457; Laws, 1986, ch. 376; Laws, 1988, ch. 518, § 66]

§ 57-54-7. [Laws, 1984, ch. 381, § 4]

§ 57-54-9. [Laws, 1984, ch. 381, § 5; Laws, 1987, ch. 411, § 2]

§ 57-54-11. [Laws, 1984, ch. 381, § 8]

Editor's Note — Former §§ 57-54-1 et seq. pertained to the Advanced Technology Initiative Act.

Laws of 1984, ch. 381, § 10, provides as follows:

"SECTION 10. This act shall take effect and be in force from and after July 1, and, except for Section 9 [repeals former §§ 57-53-1 thru 57-53-15] of this act, shall stand repealed from and after December 31, 1989; however, the repeal of this act shall not affect the terms under which any tax reduction is granted to a qualified business prior to December 31, 1989, pursuant to subsection (2) of Section 6 of this act [§ 27-7-22(2)] or the terms of any contract executed pursuant to the provisions of this act, unless otherwise specifically provided by the terms of such contract."

Laws of 1989, ch. 524, § 34, provides as follows:

"SECTION 34. With respect to any corporation, person or other entity determined prior to July 1, 1989, by the Department of Economic Development to be a qualified business, as defined in [former] Section 57-54-5(d), the repeal provided by this section shall not affect the terms upon which either any tax credit described in [former] Section 57-54-9(b) and Section 27-7-22(2) is granted to said qualified business pursuant to official action by the Department of Economic Development prior to July 1, 1989, or any sales or use tax exemption described in [former] Section 57-54-9(a) and Section 27-65-101 is granted to said qualified business pursuant to official action by the Department of Economic Development prior to July 1, 1989, and these as well as any other special tax incentives or financial assistance shall continue in full force and effect for the period of time for which they were granted by said official action of the Department of Economic Development."

Laws of 1989, ch. 524, § 36, provides as follows:

"SECTION 36. The repeal or amendment of this act shall not reduce the terms of any tax reduction, special tax incentive or financial assistance agreed upon pursuant to official action by the Department of Economic Development, the State Tax Commission or other appropriate agency of the state or political subdivision thereof prior to the effective date of such repeal or amendment."

CHAPTER 55

Universities Research Institutes

Sec.	
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§ 57-55-1. Short title.

This chapter may be cited as the "Universities Research Institutes Act of 1983."

SOURCES: Laws, 1983, ch. 512, § 1, eff from and after July 1, 1983.

Cross References — Technical institutes generally, see §§ 37-133-1 et seq.

§ 57-55-3. Legislative findings and declarations.

The Legislature hereby finds and declares:

(a) That the economic and social progress of Mississippi depends in large measure upon the development, conservation and wise use of the natural resources of the state and orderly modernization of the laws of the state;

(b) That organized research and planning in various institutions of higher learning of the state can make significant contributions to the progress of the state;

(c) That the promotion of scientific and legal research, planning and development and the coordination of effort and dissemination of results among researchers and users is essential for efficient utilization of resources and orderly progress;

(d) That this chapter is intended to promote, and implement specific research efforts at various universities and coordinate their efforts with related research and development work conducted by other governmental and private entities.

SOURCES: Laws, 1983, ch. 512, § 2, eff from and after July 1, 1983.

§ 57-55-5. Mississippi Law Research Institute established; functions, powers and duties.

(1) In order to promote the orderly modernization and simplification of the law of the state and more complete utilization of the law resources of this state, the Mississippi Law Research Institute, hereafter referred to as MLRI, is hereby established as an official advisory law revision, research and reform agency of the State of Mississippi under the management and control of the board of trustees of state institutions of higher learning as an academic department of the University of Mississippi Law Center.

(2) The general purpose of the MLRI shall be to promote and encourage the clarification and simplification of the law of Mississippi, to improve the administration of justice, and to carry on scholarly legal research in anticipation of legal requirements for the efficient utilization and conservation of the natural resources of the state and the promotion of social, agricultural, industrial and commercial development. To that end it shall be the duty of said institute (a) to consider needed improvements in both substantive and adjective law and to make recommendations concerning same to the Legislature; (b) to examine and study the law of Mississippi and Mississippi jurisprudence with the object of discovering defects and inequities and of recommending needed reforms; (c) to receive and consider suggestions from judges, justices, public officials, lawyers and the public generally as to defects and anachronisms in the law; (d) to recommend from time to time such changes in the law as it deems necessary to reform or eliminate antiquated and inequitable rules of law and to bring the law of the state, both civil and criminal, into harmony with modern conditions; (e) to perform research and prepare reports on matters of law in support of the Legislature; (f) to advise and assist local governments, state agencies and associations by performing law research and preparation of related material, such as statutes and ordinances, reports, manuals, handbooks, codes, and conducting courses of instruction for the more efficient application of law and utilization of governmental resources; and (g) to prepare and publish texts and other scholarly works on law and procedure to aid in the administration of government within the state. In addition, the MLRI in cooperation with the Legislature and its staff shall devise and carry out a plan for continuous and comprehensive improvement in the utility and quality of the Mississippi Code. The MLRI shall coordinate its efforts with the work of the American Law Institute, National Conference of Commissioners on Uniform State Laws, the law and government institutes of the several states, and other such organizations in aid of the mission of said institute.

SOURCES: Laws, 1983, ch. 512, §§ 3, 4, eff from and after July 1, 1983.

Cross References — Board of trustees of state institutions of higher learning generally, see §§ 37-101-1 et seq.

University of Mississippi generally, see §§ 37-115-1 et seq.

§ 57-55-7. Mississippi Water Resources Research Institute established; functions, powers and duties.

(1) The board of trustees of state institutions of higher learning is hereby authorized and directed to establish a Mississippi Water Resources Research Institute, hereinafter referred to as the WRRI, at Mississippi State University under the direct supervision of the president of the university or a vice-president to be designated by the president.

(2) It shall be the function and duty of the WRRI to:

(a) Assist state agencies in the development and maintenance of a state water management plan;

(b) Consult with state and local governmental agencies, water management districts, water user associations, the legislature of the State of Mississippi, and other potential users in identifying and establishing research, planning, policy, and management priorities regarding water problems.

(c) Negotiate and administer contracts with local, regional, state and federal agencies and other universities of the state for mitigation of priority water and related problems;

(d) Report to the appropriate state agencies each year on the progress and findings of research projects;

(e) Disseminate new information and facilitate transfer and application of new technologies as they are developed;

(f) Provide for liaison between Mississippi and funding agencies as an advocate for Mississippi water research, planning, policy, and management needs; and

(g) Facilitate and stimulate planning and management that:

(i) Deals with water policy issues facing the State of Mississippi;

(ii) Supports state water agencies' missions with research on problems encountered and expected;

(iii) Provides water planning and management organizations with tools to increase efficiency and effectiveness of water planning and management.

(3) The principal administrative officer of the WRRI shall be a director, who shall be appointed by the president of Mississippi State University, with the approval of the board of trustees of state institutions of higher learning. To meet the purposes of the WRRI, the director shall develop appropriate policies and procedures (a) for identification of priority research problems; (b) for collaborating with local and state governmental agencies, water user associations, other universities, federal government agencies, and the legislature in the formulation of its research program; (c) for selection of projects to be funded; and (d) for the dissemination and transfer of information and technology produced by research.

SOURCES: Laws, 1983, ch. 512, §§ 5-7, eff from and after July 1, 1983.

Cross References — Board of trustees of state institutions of higher learning generally, see §§ 37-101-1 et seq.

Mississippi State University generally, see §§ 37-113-1 et seq.

Water pollution generally, see §§ 49-17-1 et seq.

Surface water control, see §§ 51-3-1 et seq.

Subsurface waters, see §§ 51-5-1 et seq.

Water management districts generally, see §§ 51-7-1 et seq.

§ 57-55-9. Mississippi Mineral Resources Institute established; functions and duties.

(1) The Mississippi Mineral Resources Institute, hereinafter referred to as MMRI, is hereby established. The MMRI shall be under the management and control of the board of trustees of state institutions of higher learning. The principal offices of the MMRI shall be located at the University of Mississippi. The MMRI shall be organized to coordinate mining and mineral research, planning and development with the appropriate disciplines in other institutions of higher learning and other state, federal and private agencies concerned with the development and conservation of the mineral resources of the state.

(2) It shall be the function and duties of the MMRI to:

(a) Conduct basic and applied research for the development and conservation of mineral resources, including but not limited to mining, land reclamation and disposal of waste material;

(b) Assist and support mining and mineral related research programs at the various institutions of higher learning;

(c) Assist and consult with state and local agencies in planning the development and conservation of mineral resources;

(d) Maintain liaison with private industry and appropriate state and local agencies to promote industrial development and conservation of mineral resources and plan, initiate and maintain a program of cooperative training between private industry and the academic and technical institutions of the state;

(e) Disseminate new information and facilitate transfer and application of new technologies as they are developed; and

(f) Negotiate and administer contracts with private, local, regional, state and federal agencies.

SOURCES: Laws, 1983, ch. 512, §§ 8, 9, eff from and after July 1, 1983.

Cross References — Board of trustees of state institutions of higher learning generally, see §§ 37-101-1 et seq.

University of Mississippi generally, see §§ 37-115-1 et seq.

State Oil and Gas Board, see §§ 53-1-1 et seq.

Development, production and distribution of oil and gas, see §§ 53-3-1 et seq.

Geological and mineral survey, see §§ 53-5-1 et seq.

Surface mining and reclamation of land, see §§ 53-7-1 et seq.

Surface coal mining and reclamation of land, see §§ 53-9-1 et seq.

§ 57-55-11. Mississippi Small Business Development Center Established; functions and duties.

(1) The Mississippi Small Business Development Center, hereinafter referred to as SBDC, is hereby established. The board of trustees of state institutions of higher learning is hereby authorized to establish the Mississippi Small Business Development Center at the University of Mississippi under the direct supervision of the chancellor of the university and the dean of the business school.

(2) It shall be the function and duty of the SBDC to:

(a) Develop a system to deliver management assistance to the small business community utilizing the resources of local, state and federal government programs, various segments of the private sector, and universities and colleges throughout the state;

(b) Make management and technical assistance available to small businesses in Mississippi by linking together the above resources;

(c) Develop small business opportunities for new start-ups and the expansion of existing businesses;

(d) Develop the economic area served by the SBDC by providing opportunities for increased productivity through utilization of modern technology as developed by government, the university and the private sector;

(e) Develop a clearinghouse for the collection and dissemination of economic and business data;

(f) Assist businesses in developing more efficient marketing and distribution channels, including foreign trade marketing;

(g) Increase opportunities for socially and/or economically disadvantaged entrepreneurs to enter the mainstream of our economy through an organized outreach program; and

(h) Increase small business viability so that the small business client "graduates" from the SBDC.

(3) The principal officer of the SBDC shall be an executive director who shall be appointed by the chancellor of the University of Mississippi, with the approval of the board of trustees of state institutions of higher learning.

SOURCES: Laws, 1983, ch. 512, §§ 10-12, eff from and after July 1, 1983.

Cross References — Board of trustees of state institutions of higher learning generally, see §§ 37-101-7 et seq.

University of Mississippi generally, see §§ 37-115-1 et seq.

Department of Environmental and Community Development, see §§ 57-1-1 et seq.

Industrial development fund, see §§ 57-4-1 et seq.

Small business assistance generally, see §§ 57-10-1 et seq.

Market and industrial studies and research, see §§ 57-11-3 et seq.

§ 57-55-13. Mississippi Polymer Institute established; functions and duties.

(1) The Mississippi Polymer Institute, hereinafter referred to as the MPI, is hereby established under the management and control of the board of trustees of state institutions of higher learning. The principal offices of the MPI shall be located at the University of Southern Mississippi and shall be under the direction of the president and such other administrative authorities within the university as the board of trustees may determine.

(2) It shall be the function of the MPI to conduct and sponsor research of interest to the polymer industries of the state, and to disseminate research results and other information of interest to appropriate individuals and research agencies for whom such knowledge will be helpful, and to the Mississippi polymer industries by conducting and sponsoring short courses, seminars and symposia. Said research shall be designed to increase the utilization of Mississippi raw materials in polymers and to support the rapidly growing polymer industry. Data from applications research will be released to appropriate Mississippi research agencies and industries for appropriate utilization. The MPI shall be organized to coordinate polymer research, planning and development with the appropriate disciplines in other institutions of higher learning and other state, federal and private agencies concerned with the development of Mississippi's polymer industry.

SOURCES: Laws, 1983, ch. 512, §§ 13, 14, eff from and after July 1, 1983.

Cross References — Board of trustees of state institutions of higher learning generally, see §§ 37-101-1 et seq.

University of Southern Mississippi generally, see §§ 37-119-1 et seq.

Development, production and distribution of oil and gas generally, see §§ 53-3-1 et seq.

Small businesses generally, see §§ 57-10-1 et seq.

Market and industrial studies and research, see §§ 57-11-3 et seq.

§ 57-55-15. Mississippi Energy Research Center established; functions and duties.

(1) The Mississippi Energy Research Center, hereinafter referred to as the MERC, is hereby established under the management and control of the board of trustees of state institutions of higher learning. The MERC shall be a unit of Mississippi State University under the direct supervision of the president thereof or a vice president to be designated by the president.

(2) It shall be the purpose of the MERC to develop, implement and coordinate energy and energy-related research programs in Mississippi. It shall be the duty of the MERC to:

(a) Conduct basic and applied research related to energy needs within Mississippi;

(b) Consult with state and local government agencies, utilities, industry and legislature and other potential users of research in identifying and prioritizing energy problems for research;

(c) Negotiate and administer contracts with other universities of the state for the conduct of research projects;

(d) Report to the Governor and to the Legislature each year on the progress and findings of research projects;

(e) Facilitate the transfer and application of new technologies as they are developed; and

(f) Facilitate and stimulate research that:

(i) Deals with policy issues facing the Legislature;

(ii) Supports state agencies' missions with research on problems encountered and expected; and

(iii) Provides energy planning and management organizations with tools to increase efficiency and effectiveness of energy planning and management.

(3) The principal administrative officer of the MERC shall be a director, who shall be appointed by the president with the approval of the board of trustees of state institutions of higher learning. To meet the purposes of the center, the director shall develop appropriate policies and procedures (a) for identification of priority research problems; (b) for collaborating with local and state government agencies, utilities, industry, other universities, federal government agencies and the Legislature in the formulation of its research program; (c) for selection of projects to be funded; and (d) for the transfer of technology which is produced by the research.

SOURCES: Laws, 1983, ch. 512, §§ 15-17, eff from and after July 1, 1983.

Cross References — Board of trustees of state institutions generally, see §§ 37-101-1 et seq.

Mississippi State University generally, see §§ 37-113-1 et seq.
Oil, gas and other minerals, see §§ 53-1-1 et seq.
Nuclear energy, see §§ 57-25-1 et seq.
Energy and transportation planning, see §§ 57-39-1 et seq.
Energy management law, see §§ 57-39-101 et seq.
Public service commission, see §§ 77-1-1 et seq.
Regulation of utilities generally, see §§ 77-3-1 et seq.
Electric power generally, see §§ 77-5-1 et seq.

§ 57-55-17. Mississippi Urban Research Center established; functions and duties.

(1) The Mississippi Urban Research Center, hereinafter referred to as the MURC, is hereby established under the management and control of the Board of Trustees of State Institutions of Higher Learning. The principal officers of the MURC shall be located at Jackson State University and shall be under the direction of the president of the university subject to the governance of the board of trustees. The president shall appoint a director of the MURC who

shall recommend to the president necessary professional and administrative staff of the center, all subject to the approval of the board of trustees.

(2) It shall be the function of the urban research center to conduct basic and applied research into urban problems and public policy and to make available the results of this research to private groups, public bodies and public officials. They may offer consultations and general advisory services concerning urban problems and their solutions. According to the policies of the Board of Trustees of State Institutions of Higher Learning and with its approval, they may conduct instructional and training programs for those who are working in or expect to make careers in urban public service. Such training programs may be conducted by Jackson State University either in its own name or by agreement and cooperation with other public and private organizations. The MURC personnel shall cooperate fully with the various departments of the state government, with the colleges and universities of the state, with the University Research Center, with the Mississippi Department of Economic Development, and with other research and development agencies in an effort to fully effectuate the purpose of this section. All state agencies and departments are hereby authorized and directed to give the MURC and its personnel their full cooperation in every possible manner.

SOURCES: Laws, 1983, ch. 512, §§ 18, 19; Laws, 1988, ch. 518, § 67, eff from and after July 1, 1988.

Editor's Note — Section 57-1-2 provides that "Mississippi Department of Economic Development" shall mean the "Department of Economic and Community Development".

Cross References — Board of trustees of state institutions of higher learning, see §§ 37-101-1 et seq.

Jackson State University generally, see §§ 37-125-1 et seq.

University Research Center, see §§ 37-141-1 et seq.

§ 57-55-19. Provision of housing, equipment, personnel, etc.; acceptance of contributions, donations, gifts and grants.

The said board of trustees shall provide for such housing, equipment, personnel, supplies and services as it shall determine to be necessary for the proper operation and maintenance of the research institutions established by this chapter, having due regard for the contributory facilities and programs already existing at the various universities. In addition to appropriations made by the Mississippi legislature for the operation and support of the research institutions, the said board of trustees is authorized and empowered to receive contributions, donations, gifts and grants of money or other income and/or property, equipment, materials or manpower from persons, foundations, trust funds, corporations, organizations and other sources, to be expended by said board in carrying out the objectives of this chapter.

SOURCES: Laws, 1983, ch. 512, § 20, eff from and after July 1, 1983.

Cross References — Board of Trustees of State Institutions of Higher Learning, see §§ 37-101-1 et seq.

§ 57-55-21. Employment and compensation of personnel.

The said board of trustees may employ such full and part-time employees as is necessary to perform the duties of the institutions set forth above consistent with the availability of funds. Reasonable compensation and reimbursement of expenses may be made to such employees and others who provide professional services to the research institutions established by this chapter, including other employees of the State of Mississippi whose duties are increased by rendition of professional services to such institutions.

SOURCES: Laws, 1983, ch. 512, § 21, eff from and after July 1, 1983.

Cross References — Board of Trustees of State Institutions of Higher Learning, see §§ 37-101-1 et seq.

§ 57-55-23. Conduct of research for governmental entities, public or private organizations, etc., on contractual basis; use of proceeds.

The institutions established by this chapter may, subject to approval of the proper administrative authorities at the various universities, perform research and other services consistent with the purpose and duties of the institutes, on a contractual basis for governmental entities, public or private organizations, or any others, at a price and on a basis to be determined by such universities. The proceeds from such work shall be used, in addition to other funds provided therefor, for the operation and support of the research institutions.

SOURCES: Laws, 1983, ch. 512, § 22, eff from and after July 1, 1983.

CHAPTER 56

Mississippi Technology Transfer Office

Sec.
57-56-1. Mississippi Technology Transfer Office.

§ 57-56-1. Mississippi Technology Transfer Office.

(1) There is hereby created and established the Mississippi Technology Transfer Office located in the space allocated to the State of Mississippi within the Mississippi Technology Transfer Center at the National Space Technology Laboratories, National Aeronautics and Space Administration, in Hancock County, Mississippi, hereinafter referred to as "NSTL," which office shall be administered and staffed by the Department of Economic Development.

(2) The position of State Director of Technology Transfer is hereby established, and the Director of the Mississippi Department of Economic Development shall employ a senior scientist-administrator to fill the position of State Director of Technology Transfer, who is hereby designated as Mississippi's official technology transfer representative at NSTL.

(3) The State Director of Technology Transfer shall have the following duties and responsibilities:

(a) Manage and control the Mississippi Technology Transfer Office, and recommend from time to time to the Governor such utilization of space available in the Mississippi Technology Transfer Center deemed appropriate as having a direct impact on the transfer of technology;

(b) Establish a mechanism through which utilization of available space within the center can best be determined to be in the state's best interest;

(c) Provide an office for and maintain liaison with NSTL's Technology Utilization Officer for a direct interface with federal laboratory expertise for NSTL's technology transfer and economic development endeavors;

(d) Assist the Director of the University Research Center to examine the potential for including the establishment at or near NSTL of university research centers in engineering, science or technology in the strategy and planning for any future research and development programs for the state, such university centers to focus on areas of fundamental research and technology that are scientifically promising and have the potential to contribute to Mississippi's long-term economic competitiveness and growth;

(e) Encourage and facilitate collaboration among state and local governments, universities, the private sector, particularly small business, and NSTL and other federal laboratories in order to assist in the transfer of science and technology to the marketplace;

(f) Facilitate communication, coordination and cooperation between state and local technology transfer organizations and the Offices of Research and Technology Applications of federal laboratories; and

(g) Prepare and submit quarterly to the Governor and the Director of the Department of Economic Development a report summarizing the activities performed by the Mississippi Technology Transfer Office.

(4) The Mississippi Technology Transfer Office shall have the following functions and duties:

(a) In order to ensure that Mississippi benefits from and fully exploits scientific research and technology developed at NSTL and other federal laboratories, participate with NSTL not only in generating new knowledge and understanding in advanced technologies, but also in encouraging the swiftest possible transfer of federally developed science and technology to the private sector of the state;

(b) Be the conduit between and among NSTL and other federal laboratories and consortiums, state and local governments, universities and the private sector for the transfer of technology developed from federal research and development efforts at NSTL;

(c) Provide state and local governments, universities and the private sector with information on technology, expertise and facilities available at NSTL and other federal laboratories;

(d) Identify areas of research and technology of potential importance to long-term state economic competitiveness;

(e) Cooperate with and assist NSTL in broadening Mississippi's technology base by moving new knowledge from the research laboratory into the development of new products and processes;

(f) Provide a clearinghouse for requests received at NSTL for technical assistance from state agencies, units of local governments, businesses, industrial development organizations, not-for-profit organizations including universities, federal agencies and laboratories and other persons;

(g) Assist the private sector of Mississippi to participate, where appropriate, in federal technology exchange programs whereby scientists and engineers in the private sector may take temporary assignments in federal laboratories, and scientists and engineers in federal laboratories may take temporary assignments in the private sector;

(h) When requested, assist NSTL, colleges or universities, businesses, not-for-profit organizations, state agencies, local governments or regional organizations to establish programs to stimulate research and to encourage technology transfer in such areas as technology program development, curriculum design, long-term research planning, personnel needs projections and productivity assessments; and

(i) Encourage and participate in the establishment and operation of centers at or near NSTL, which centers may be affiliated with any university or other nonprofit institution, or any group thereof, that will have as objectives:

(i) The enhancement of technological innovation through the participation of individuals from federal laboratories, industry, universities and other nonprofit institutions, or any group thereof, in cooperative technological innovation activities; and

(ii) The improvement of mechanisms for the dissemination of scientific, engineering and technical information among federal laboratories, universities, other nonprofit institutions and industry.

(5) The public interest demands and the general welfare requires this procedure so that the comprehensive state policy on technology transfer may be implemented in the most effective, efficient and economical manner.

(6) It shall be the duty of every department, agency, office, institution and political subdivision of the State of Mississippi, and the officers thereof, to cooperate with and assist the Mississippi Technology Transfer Office and the State Director of Technology Transfer in every reasonable way.

SOURCES: Laws, 1988, ch. 518, § 91, eff from and after July 1, 1988.

Editor's Note — Section 57-1-54 provides that the term "Mississippi Department of Economic Development" shall mean the "Department of Economic and Community Development".

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — University Research Center, see §§ 37-141-1 et seq.

Mississippi Development Authority generally, see §§ 57-1-1 et seq.

Requirement that Superconducting Super Collider Authority develop plans for technology transfer activities related to the Superconducting Super Collider project, see § 57-67-13.

CHAPTER 57

Export Trade Development

Sec.
57-57-1. Short title.
57-57-3. Legislative findings and declarations.
57-57-5. Definitions.
57-57-7. Creation of committee; funds; guarantee against political or commercial loss.
57-57-9. Reports.
57-57-11. Creation and participation in export trading company.
57-57-13. Rules and regulations.

§ 57-57-1. Short title.

This chapter may be cited as the "Mississippi Export Trade Development Act."

SOURCES: Laws, 1984, ch. 393, § 1, eff from and after July 1, 1984.

§ 57-57-3. Legislative findings and declarations.

The Legislature of the State of Mississippi hereby finds and declares that the economy of the State of Mississippi is increasingly dependent upon the international export of Mississippi manufactured goods, commodities, and services, and the export of these products and services has become vital to the stimulation and development of the state's economy, and that expanding international export markets is essential to the creation of and increase in the number of jobs in these sectors of the state's economy. Therefore, it is declared to be the purpose of this chapter to promote the general welfare of all of the people of the state and increase job opportunities through the development and expansion of international export markets for Mississippi products and services, especially those of small and medium sized businesses, by assisting in the creation of an export trade company and by providing financial assistance and tax incentives for Mississippi businesses engaging in export sales.

SOURCES: Laws, 1984, ch. 393, § 2, eff from and after July 1, 1984.

§ 57-57-5. Definitions.

For the purposes of this chapter, the following terms shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise:

(a) "Committee" means a committee, consisting of the chairman of the Certified Development Company of Mississippi, Inc., or his designee, two (2) bankers and two (2) Mississippi businessmen who are members of the Certified Development Company of Mississippi, Inc., created pursuant to Section 57-10-167, and actively involved in exporting.

(b) "Company" means the Certified Development Company of Mississippi, Inc., created pursuant to Section 57-10-167.

(c) "Bank" means any state or national bank doing business in Mississippi, which is approved by the company.

(d) "Eligible export trade transaction" means a transaction consisting of a loan from any Mississippi bank to finance an international pre-export or export, which in the judgment of the company will create or maintain employment in Mississippi and shall contain at least fifty percent (50%) of value added in goods or services at a location in Mississippi.

(e) "Guarantee" means additional security by the State of Mississippi for the eligible export trade transaction of any Mississippi business.

(f) "Business" means any person, corporation, partnership, proprietorship, association, organization or agency domiciled in the State of Mississippi.

(g) "Guarantee fee" means a fee charged by the Certified Development Company of Mississippi, Inc., for processing the guarantee.

(h) "Board" means the Mississippi Department of Economic Development operating through its executive director.

(i) "Commercial loss" means failure of the buyer to pay to the Mississippi business when due all or part of the gross invoice value of an eligible export trade transaction due to the insolvency of the buyer.

(j) "Political loss" means failure of the buyer to pay to the Mississippi business when due all or part of the gross invoice value of an eligible export trade transaction due to dollar transfer delays, war, revolution, license revocation or diversion of goods.

SOURCES: Laws, 1984, ch. 393, § 3; Laws, 1988, ch. 518, § 68, eff from and after July 1, 1988.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (a) by adding "the" before the word "chairman" so that "a committee, consisting of chairman of the Certified Development Company" reads "a committee, consisting of the chairman of the Certified Development Company." The Joint Committee ratified the correction at its August 5, 2008, meeting.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Section 57-10-167 provides that the Certified Development Company of Mississippi, Inc., shall be known as the Mississippi Business Finance Corporation.

§ 57-57-7. Creation of committee; funds; guarantee against political or commercial loss.

The Certified Development Company of Mississippi, Inc., is hereby given the authority to create a committee to assist the company in implementing this chapter and establishing a source of guarantees and financial assistance to support export development, particularly to small business as defined in Section 503 of the Small Business Investment Act of 1958, as amended. The company is hereby authorized to:

(a) Utilize any funds not to exceed one million dollars ($1,000,000.00), authorized to be expended under Chapter 10, Title 57, Mississippi Code of 1972.

(b) Provide a guarantee against political or commercial loss in whole or in part of the outstanding principal balance on any eligible export trade transaction. Such a guarantee may include, without limitation, the cost of insurance provided by the exporting business against loss up to a stated amount. The maximum amount payable under any guarantee shall be specifically set forth in writing, and shall not exceed seventy-five percent (75%) of the total principal amount. The amount of all outstanding loan guarantees shall not exceed five million dollars ($5,000,000.00) at any one (1) time. A reasonable and legal guarantee fee may be set by the company. Any guarantee entered into by the company hereunder shall not constitute a general obligation of the State of Mississippi. Any guarantee made by the company hereunder shall not be terminated, cancelled, or otherwise revoked except in accordance with the terms thereof; shall be conclusive evidence that such guarantee complies fully with the provisions of this chapter; and shall be valid and incontestable in the hands of a holder in due course of a guaranteed eligible export trade transaction.

(c) Prior to providing a guarantee, the participating bank shall make a thorough credit investigation of the exporting business in order to determine its viability, the economic benefits to be derived therefrom, the prospects for repayment, and such other facts as it deems necessary in order to determine that such a guarantee is consistent with the purpose of this chapter. The company shall provide a guarantee if, and only if and to the extent that, it determines that such a guarantee is reasonably necessary in order to stimulate or facilitate the making of the eligible export trade transaction, upon terms which will enable the export transaction to be reasonably competitive with export transactions in other states or in foreign countries, or such guarantee is reasonably necessary in order to stimulate or facilitate the sale or resale of such eligible export trade transaction to a holder in due course which would not otherwise purchase such eligible export trade transaction; provided, however, that the guarantee provided by the company to the bank shall be loaned to the business at a fixed interest rate and term as the company may from time to time require. The interest rate and term of such loan shall not be in violation of the 1947 General Agreement on Tariffs and Trade. The company may condition the provision of guarantee hereunder upon such terms and conditions as it may deem desirable to carry out the provisions of this chapter.

SOURCES: Laws, 1984, ch. 393, § 4, eff from and after July 1, 1984.

Editor's Note — Section 57-10-167 provides that the Certified Development Company of Mississippi, Inc., shall be known as the Mississippi Business Finance Corporation.

Federal Aspects — Section 503 of Small Business Investment Act of 1958, see § 15 USCS § 697.

1947 General Agreement on Tariffs and Trade, Oct. 30, 1947, 61 Stat. A-3, 55 U.N.T.S. 187.

§ 57-57-9. Reports.

An annual report of the activities by the company and the committee under this chapter shall be submitted along with other annual reports of the Certified Development Company of Mississippi, Inc., to the board.

SOURCES: Laws, 1984, ch. 393, § 5, eff from and after July 1, 1984.

Editor's Note — Section 57-10-167 provides that the Certified Development Company of Mississippi, Inc., shall be known as the Mississippi Finance Corporation.

§ 57-57-11. Creation and participation in export trading company.

The board is hereby authorized to assist in the creation of and actively participate in an export trading company as defined in Title I, Section 103 of the United States Export Trading Company Act of 1982 to promote and facilitate increased exports in Mississippi.

SOURCES: Laws, 1984, ch. 393, § 6, eff from and after July 1, 1984.

Federal Aspects — Title I, Section 103 of the United States Export Trading Company Act of 1982, see 15 USCS §§ 4001 et seq.

§ 57-57-13. Rules and regulations.

The board may promulgate necessary rules and regulations and prescribe procedures to effectuate the purposes of this chapter.

SOURCES: Laws, 1984, ch. 393, § 7, eff from and after July 1, 1984.

CHAPTER 59

Mississippi Capital Companies
[Repealed]

§§ 57-59-1 through 57-59-17. Repealed.

Repealed by Laws, 1989, ch. 524, § 35, eff from and after July 1, 1989.
§ 57-59-1. [Laws, 1984, ch. 459, § 1; Laws, 1988, ch. 518, § 69]
§§ 57-59-3 through 57-59-17. [Laws, 1984, ch. 459, §§ 2-9]

Editor's Note — Former §§ 57-59-1 through 57-59-17 related to Mississippi Capital Companies, and authorized special incentives for Mississippi companies which made venture capital available for qualified investments.

Laws of 1984, ch. 459, § 10, provides in part, with respect to the prospective repeal of the chapter on December 31, 1990, that:

"SECTION 10. [T]he repeal of this act shall not affect the period of time prescribed for carrying forward income tax credits allowed under this act prior to such repeal."

Laws of 1989, ch. 524, § 36, provides as follows:

"SECTION 36. The repeal or amendment of this act shall not reduce the terms of any tax reduction, special tax incentive or financial assistance agreed upon pursuant to official action by the Department of Economic Development, the State Tax Commission or other appropriate agency of the state or political subdivision thereof prior to the effective date of such repeal or amendment."

CHAPTER 61

Mississippi Business Investment Act

Sec.
57-61-1. Short title.
57-61-3. Purpose of chapter.
57-61-5. Definitions.
57-61-7. Establishment of Business Investment Program.
57-61-9. Letters of intent to locate, expand, or build within municipality; applications for loans or grants; maximum amount of loans; projects involving port facilities.
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57-61-25. Authorization of indebtedness; issuance of bonds; form of bonds; exemption from taxation by state; issuance of refunding bonds; taxable bonds.
57-61-27. Sale of bonds; issuance of temporary bonds; investment of bond proceeds; registration of bonds; payment of costs and expenses.
57-61-29. Authorization of temporary borrowing; issuance of replacement notes and refunding bonds; payment of proceeds to State Treasurer; exemption from taxation.
57-61-31. Disposition of proceeds from bond sales and other funds.
57-61-32. Funds to defray costs of state's share in North Mississippi fish hatchery.
57-61-33. Grant for completion of Technology Transfer Center at National Space Technology Laboratory.
57-61-34. Loans for business incubation centers.
57-61-35. Representation of seller by Attorney General; payment of administrative, legal, and other expenses.
57-61-36. Development infrastructure grant fund; housing development revolving loan fund; equipment and public facilities grant and loan fund; capital access program.
57-61-37. Authorization for municipalities to borrow; terms; evidence of indebtedness.
57-61-39. Repealed.
57-61-41. Port Revitalization Revolving Loan Fund.
57-61-42. Repealed.
57-61-43. Small Farm Loan Program at Alcorn State University.
57-61-44. Mississippi Industries for the Blind.

§ 57-61-1. Short title.

This chapter shall be known and may be cited as the Mississippi Business Investment Act.

SOURCES: Laws, 1986, ch. 419, § 1, eff from and after passage (approved March 31, 1986).

ATTORNEY GENERAL OPINIONS

A county may use public funds to provide infrastructure to a proposed gaming project to the same extent that such services and infrastructure are legally provided to other members of the general public. Smith, July 30, 2004, A.G. Op. 04-0066.

§ 57-61-3. Purpose of chapter.

It is the purpose of this chapter to promote business and economic development in the State of Mississippi through job producing programs and by providing loans to municipalities as defined in this chapter; to assist in securing strategic investments and/or investments in small communities by private companies locating or expanding in the state; to promote the improvement and enhancement of facilities utilized in foreign and domestic commerce to and from Mississippi through state-owned ports and to provide loans to state agencies as defined in this chapter, for the construction and development of harbor, channel and port facilities; and to authorize the issuance of state bonds or notes for funding of said programs.

SOURCES: Laws, 1986, ch. 419, § 2, eff from and after passage (approved March 31, 1986).

§ 57-61-5. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

(a) "Department" means the Mississippi Department of Economic Development.

(b) "Board" means the Mississippi Department of Economic Development operating through its executive director.

(c) "Improvements" means the construction, rehabilitation or repair of drainage systems; energy facilities (power generation and distribution); fire safety facilities (excluding vehicles); sewer systems (pipe treatment); transportation directly affecting the site of the proposed investment, including roads, sidewalks, bridges, rail, port, river, airport or pipeline (excluding vehicles); bulkheads; buildings; and facilities necessary to accommodate a United States Navy home port; and means land reclamation; waste disposal; water supply (storage, treatment and distribution); land acquisition; and the dredging of channels and basins.

(d) "Municipality" means any county or any incorporated city, or town, acting individually or jointly, or any agency of the State of Mississippi operating a state-owned port.

(e) "Private company" means any agricultural, aquacultural, maricultural, industrial, manufacturing, service, tourism, or research and development enterprise or enterprises. The term "private company" shall not include any retail trade enterprise except regional shopping malls having a minimum capital investment of One Hundred Million Dollars ($100,000,000.00). No more than fifteen percent (15%) of the aggregate funds made available under this chapter shall be used to fund aquacultural, maricultural and tourism enterprises. The funds made available to tourism enterprises under this chapter shall be limited to infrastructure improvements and to the acquisition of land and shall not be made available to fund tourism promotions or to fund the construction, improvement or acquisition of hotels and/or motels or to finance or refinance any obligations of hotels and/or motels.

(f) "Governmental unit" means a department or subsidiary of the United States government, or an agency of the State of Mississippi operating a state-owned port.

(g) "Private match" means any new private investment by the private company and/or governmental unit in land, buildings, depreciable fixed assets, and improvements of the project used to match improvements funded under this chapter. The term "private match" includes improvements made prior to March 31, 1986, pursuant to contracts entered into contingent upon assistance being made available under this chapter.

(h) "Publicly owned property" means property which is owned by the local, state or United States government and is not under the control of a private company.

(i) "Director" means the Executive Director of the Department of Economic Development.

(j) "Small community" means a county with a population of twenty-five thousand (25,000) or less; or a municipality with a population of ten thousand (10,000) or less and any area within five (5) miles of the limits of such municipality, according to the most recent federal decennial census.

(k) "Strategic investment" means an investment by the private and public sectors that will have a major impact on job creation and maintenance in the state of no less than one hundred fifty (150) jobs, that will have a major impact on enlargement and enhancement of international and foreign trade and commerce to and from the State of Mississippi, or which is considered to be unique to the state and have statewide or regional impact as determined by the department.

(*l*) "Seller" means the State Bond Commission or the State Development Bank.

SOURCES: Laws, 1986, ch. 419, § 3; Laws, 1987, ch. 302, § 2; Laws, 1988, ch. 518, § 70; Laws, 1988, ch. 569, § 2; Laws, 1988, ch. 586; Laws, 1989, ch. 523, § 1;

Laws, 1990 Ex Sess, ch. 71, § 17, eff from and after passage (approved June 30, 1990).

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Application of definition of "private company" to exemptions from ad valorem taxation, see § 27-31-104.

State Bond Commission, see §§ 31-17-101 et seq.

ATTORNEY GENERAL OPINIONS

Whether a proposal constitutes a "project" for purposes of qualifying for a "fee-in-lieu" of ad valorem tax under Miss. Code Ann. § 27-31-104 is a factual determination which must be made by the Mississippi Development Authority. A Project qualifying for fee-in-lieu is entitled to a single 10-year exemption based on the completion of the single qualifying project. Welch, February 2, 2007, A.G. Op. #07-00013, 2007 Miss. AG LEXIS 9.

§ 57-61-7. Establishment of Business Investment Program.

There is hereby established, under the direction of the department, a program to be known as the Business Investment Program for the purpose of making grants or loans to municipalities in order to install and effect specific improvements and projects necessary to complement industrial investment by private companies, the federal government or municipalities which increase Mississippi's share of domestic, international and foreign commerce to create and maintain new full-time jobs.

SOURCES: Laws, 1986, ch. 419, § 4; Laws, 1989, ch. 523, § 2, eff from and after passage (approved April 4, 1989).

§ 57-61-9. Letters of intent to locate, expand, or build within municipality; applications for loans or grants; maximum amount of loans; projects involving port facilities.

(1) Any private company desiring assistance from a municipality shall submit to the municipality a letter of intent to locate, expand or build a facility entirely or partially within the municipality or on land the municipality is authorized to own or otherwise acquire. The letter of intent shall include:

(a) Except for strategic investments, a commitment that the proposed project will create and maintain a minimum of ten (10) net new full-time equivalent jobs, will create and maintain at least a five percent (5%) increase in full-time equivalent jobs in the case of expansion of an enterprise already located at the site or at least a twenty-five percent (25%) increase in full-time equivalent jobs pursuant to subsection (9) of Section 57-61-15 and will create and maintain at least one (1) net new full-time equivalent job for every Fifteen Thousand Dollars ($15,000.00) either loaned or granted for the project. The commitment required by this paragraph (a) shall include any jobs created prior to March 31, 1986, resulting from contracts entered into contingent upon assistance being made available under this chapter. All jobs required to be maintained by this paragraph (a) shall be maintained until such time as any loan made under this chapter for the benefit of a private company is repaid.

(b) A statement that the specific improvements are necessary for the efficient and cost-effective operation of the private company, together with supporting financial and engineering documentation.

(c) Any commitment to pay rental on, or to make loan repayments related to, the improvements to be made with funds loaned to a municipality under this chapter.

(d) If required by the Mississippi Development Authority, a notarized statement of willingness to grant a lien on the facility for which the improvement is being provided, in an amount and a manner to be determined by the Mississippi Development Authority, which lien may be foreclosed in the event that the private company fails to operate in the facility according to the terms of the agreement and/or to collateralize the loan made for the benefit of the private company for which the improvement is being provided in an amount and manner to be determined by the Mississippi Development Authority. In the event the contractual agreement is to be entered into with a department or subsidiary of the United States government, the Mississippi Development Authority shall determine that the governmental unit will operate the proposed project for a sufficient number of years to retire the loan based on increased revenue estimates by the University Research Center and any agreement entered into shall reflect that the interest paid on any loan for such purpose shall be included in Mississippi's contributory value in the project. In the event the private company requesting the assistance is a subsidiary of another corporation, if required by the Mississippi Development Authority, any contractual agreement entered into shall also require the parent company to unconditionally warrant the performance of the subsidiary in carrying out the terms of the agreement or it shall require the subsidiary and/or the parent company to pledge assets in an amount and a manner to be determined by the Mississippi Development Authority and/or to collateralize the loan in an amount and a manner to be determined by the Mississippi Development Authority to ensure the performance of the terms of the contract.

(2) Upon receipt of the letter of intent from a private company, the municipality may apply to the Mississippi Development Authority for a loan or grant. The application from the municipality shall include, but not be limited to:

(a) A statement of the purpose of the proposed loan or grant, including a list of eligible items and the cost of each.

(b) A statement showing the sources of funding for the entire project, including the private company's or governmental unit's investment in the project and any public and other private sources of funding.

(c) A certified copy of the signed letter of intent from a private company or governmental unit, as specified in this section.

(d) Evidence that there will be a private match of at least Three Dollars ($3.00) for every One Dollar ($1.00) of state assistance, except:

(i) In the case of ports the private match will be at least Two Dollars ($2.00) for every One Dollar ($1.00) of state assistance; and

(ii) In the case where the Mississippi Development Authority determines that a private company is a high technology enterprise the private match will be at least Two Dollars ($2.00) for every One Dollar ($1.00) of state assistance.

The Mississippi Development Authority shall establish criteria for determining whether a private company is a high technology enterprise.

(e) Demonstration that the private company is financially sound and is likely to fulfill the commitments made in its letter of intent.

(f) A proposed timetable for the provision of the improvements.

(g) Evidence that the project will be expeditiously carried out and completed as planned.

(h) A demonstration that insufficient local capital improvement funds at reasonable rates and terms are available within the necessary time to provide the needed improvement on public property. This includes local funds available through issuance of bonds or other means, state funds available through existing programs, and available federal program funds such as community development block grant funds, urban development action grant funds, and economic development administration funds.

(i) A demonstration that insufficient private funds are available at reasonable rates and terms within the necessary time to fund improvement on property owned by the private company.

(3) The Mississippi Development Authority shall consider grant and loan applications based on the following criteria:

(a) The number of net new full-time equivalent jobs that will be provided and the amount of additional state and local tax revenue estimated by the University Research Center to be directly generated by the private company's new investment, and additionally, as to loan applications by state agencies, the extent to which shipping through the port will be increased by the proposed port development projects, the degree to which jobs will be increased in the port area and the impact on port revenues.

(b) The ability to repay the principal and interest, in the case of a loan, based on increased revenue estimates and any revenue-producing provision of a contractual agreement.

(c) The increase in the employment base of the state.

The Mississippi Development Authority and the University Research Center may use the resources and capabilities of the planning and development districts in carrying out the provisions of this chapter.

(4) No loan shall be made in excess of the amounts which can be repaid with the increased revenues estimated by the University Research Center, provided that this subsection (4) shall not apply to loans in connection with a United States Navy home port.

(5)(a) Notwithstanding anything contained in this chapter, an agency of the State of Mississippi operating a state-owned port, and hereinabove identified as a "municipality" and "governmental unit" for purposes of this chapter, may make application for a loan or grant under the terms and provisions of this chapter. In addition, a public agency operating a port bordering on the Gulf of Mexico, which shall be considered to be a "municipality" or a "governmental unit" for the purposes of this chapter, may make application for a loan or grant under the terms and provisions of this chapter from funds other than those funds authorized for a state-owned port under paragraph (e)(iii) of Section 57-61-11. The application shall be initiated by submission of a letter of intent to engage in a project or projects for the purpose of effecting enlargement and improvement in all facilities used and useful in attracting international and foreign commerce through the port. Projects eligible for inclusion in the letter of intent may include, but not be restricted to:

(i) Dredging and deepening the access channel and harbor basin of the port;

(ii) Effecting the enlargement of the land area of the port by reclamation;

(iii) Construction and installation of piling, bulkheads, docks, wharves, warehouses and appurtenances; and

(iv) Acquisition of facilities and equipment for handling bulk and containerized cargo.

(b) With respect to a state-owned port bordering on the Gulf of Mexico, the letter of intent shall include the following information and any other information required by the Mississippi Development Authority:

(i) Present and future annual tonnages expected as a result of the improvements.

(ii) Reasons why present facilities are inadequate to enable the port to compete, including limitations imposed by insufficient depth of channel and basin.

(iii) Increased channel and basin depths necessary to accommodate modern shipping.

(iv) Comparison of the percentage of the world's cargo shipping that can now be accommodated with what could be accommodated with project improvements.

(v) Economic contribution to the region and state resulting from increased shipping activity.

(vi) Statement of degree to which port revenues are expected to be increased as a result of projects.

(vii) Financial data of port activities, including cost of project, degree of federal funding available and required local participation.

On or before January 1, 1989, a state-owned port described in this paragraph (b) shall submit to the Senate Finance Committee and the House Ways and Means Committee of the Mississippi Legislature a comprehensive, written report updating for each committee the information listed in items (i) through (vii) of this paragraph (b) with particular emphasis on the economic contribution to the region and state by shipping activity at the port; on financial data with respect to the degree of federal funding available and local participation in funding port activities; and on progress made in dredging and completing other improvements necessary to accommodate modern shipping.

(c) The Mississippi Development Authority shall consider grant and loan applications based on the following:

(i) The extent to which shipping through the port will be increased by the proposed projects.

(ii) The degree to which jobs will be increased in the port area.

(iii) Impact on port revenues.

(iv) The ability of the port to repay interest and principal in the case of a loan.

(6) A municipality may apply to the Mississippi Development Authority for a grant under the terms and provisions of this chapter, and the Mississippi Development Authority may award grants to a municipality subject to limitations contained in this chapter. The application shall be initiated by submission of a letter of intent to engage in a project or projects for the purpose of providing improvements necessary to accommodate a United States Navy home port.

(7) The Legislature hereby finds and determines that financing facilities necessary to accommodate a Navy home port serves a valid public purpose in that a Navy home port will significantly contribute to the employment base of the state which is in great need of assistance; provided, that in the event such facilities are no longer required for use by the Navy as a home port, such facilities shall revert as provided in Section 59-9-21.

(8) Notwithstanding any provision or requirement of this chapter to the contrary, a municipality may make application for a loan under this chapter, in an amount not to exceed Five Million Dollars ($5,000,000.00), for the purpose of acquiring and developing land to be used as a technology/industrial park for which there is a binding commitment by one or more private companies to create and maintain not less than an aggregate of three hundred (300) jobs meeting minimum criteria established by the Mississippi Development Authority. Such a commitment by a private company shall not disqualify the private company from obtaining assistance under this section. The match requirements of this section shall not apply to any loan made pursuant to this subsection (8).

(9) Notwithstanding any provision or requirement of this chapter to the contrary, a municipality operating a county-owned port or municipally owned port may make application for a loan under this chapter, in an amount not to exceed Three Million Dollars ($3,000,000.00), for the purpose of acquiring land, buildings and other improvements and for repairing, renovating, maintaining and improving such a port.

(10)(a) A municipality is authorized to negotiate a contract for the acquisition, construction and erection of a project or any portion of a project hereunder where a municipality finds that, because of the particular nature of a project or any portion thereof, it would be in the best public interest of the municipality to negotiate.

(b) Contracts by a private company for the acquisition, construction or erection of a project which receives assistance under this chapter shall be effected in the manner prescribed by law for public contracts, unless the Mississippi Development Authority makes a written finding that, because of special circumstances with respect to the projects or any portion thereof, it would better serve the public interest or more effectively achieve the purposes of this chapter to enter into such contracts based on negotiation.

(11) A municipality is authorized upon such terms and conditions as the municipality may deem advisable, provided such terms and conditions shall not be in conflict with the provisions of this chapter, to (a) acquire, whether by construction, purchase, gift or lease, all of or any portion of a project hereunder; (b) to lease or sell to others all of or any portion of a project hereunder; and (c) to lend to the private company the proceeds of the loan from the board to such municipality.

(12) All agreements between a municipality and a private company related directly or indirectly to a project or a portion of a project to be funded in whole or in part under this chapter are subject to approval by the Mississippi Development Authority.

SOURCES: Laws, 1986, ch. 419, § 5; Laws, 1987, ch. 302, § 3; Laws, 1988, ch. 518, § 71; Laws, 1988, ch. 569, § 3; Laws, 1989, ch. 523, § 3; Laws, 1990, ch. 570, § 7; Laws, 1991, ch. 432, § 1; Laws, 1992, ch. 548 § 4; Laws, 1994, ch. 626, § 1; Laws, 1999, ch. 307, § 1; Laws, 2000, ch. 586, § 1; Laws, 2003, ch. 534, § 1, eff from and after July 1, 2003.

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in the next-to-last sentence of (1)(a), by substituting "March 31, 1986" for "the effective date of this chapter." The Joint Committee ratified the correction at its August 5, 2008, meeting.

Cross References — University Research Center, see §§ 37-141-1 et seq.

Mississippi Development Authority generally, see §§ 57-1-1 et seq.

Guidelines applicable to loans made under subsection (5)(a) of this section, as well as to repayment of loans for projects involving port facilities, see § 57-61-11.

Requirement that letter of intent include commitment that certain projects will create 25% increase in full-time jobs pursuant to subsection (1) of this section, see § 57-61-15.

Private match requirements of this section inapplicable to loans or grants for North Mississippi fish hatchery, see § 57-61-32.

Private match requirements of this section inapplicable to loans made for business incubation centers, see § 57-61-34.

Private match requirements of this section inapplicable to grants made to municipalities through an equipment and public facilities grant and loan fund for infrastructure-related improvements, see § 57-61-36.

Private match requirements of this section inapplicable to grants for Small Farm Loan Program at Alcorn State University, see § 57-61-43.

ATTORNEY GENERAL OPINIONS

Assuming that a company has performed all of its obligations under the lease agreement and the city does not incur any additional obligations, the governing authorities of the city in their discretion may allow the company to exercise the option to purchase the property prior to the expiration of the original term. Hollingsworth, Sept. 13, 2002, A.G. Op. #02-0477.

Subsection (11) of this section authorizes a municipality to lend funds received from the Mississippi Development Authority to an incoming industry which may then use the funds to make renovations to a building owned by a foundation. However, no authority is found for a municipality itself to use the proceeds of a grant or loan to perform construction or renovation on property which is not owned or leased by the municipality. Baum, Jan. 9, 2004, A.G. Op. 03-0688.

§ 57-61-11. Guidelines, rules, and regulations for repayment of funds.

The Mississippi Development Authority shall establish such guidelines, rules and regulations for the repayment of funds loaned pursuant to this chapter as may be necessary. These provisions shall include, but not be limited to, the following:

(a) Funds may be loaned for a maximum of ten (10) years or the estimated useful life of the property as established by the United States Department of Treasury, whichever is greater.

(b) The rate of interest charged by the Mississippi Development Authority for improvements not on publicly owned property may be negotiated by the Mississippi Development Authority.

(c) For all improvements funded through this chapter which occur on publicly owned property, repayment of funds loaned may, in the discretion of the Mississippi Development Authority, involve only the principal amount loaned with no interest charged thereon.

(d) An audit by a certified public accountant of all costs of a project hereunder must be submitted to the Mississippi Development Authority not later than ninety (90) days after a project's completion. Such an audit shall certify that all of the funds loaned or granted pursuant to this chapter were disbursed in accordance with the terms of this chapter and shall be paid for by the private company benefited by the project. In addition to the audit required under this paragraph, the State Auditor may conduct performance and compliance audits under this chapter according to Section 7-7-211(o) and may bill the oversight agency.

(e) Notwithstanding the foregoing, in the case of an application under Section 57-61-9(5) (a), the guidelines shall include, but not be limited to, the following:

(i) Funds may be loaned for a maximum of twenty (20) years, or the estimated useful life of improvements on the land areas of the port, whichever is greater.

(ii) The rate of interest charged by the Mississippi Development Authority for loans for port projects may be negotiated by the Mississippi

Development Authority and shall be consistent with Section 57-61-11(b) and (c).

(iii) The total of grants and loans to any one (1) state-owned port made pursuant to an application under Section 57-61-9(5)(a) shall not exceed Twenty Million Dollars ($20,000,000.00).

(iv) Before any loan or grant may be made under Section 57-61-9(5)(a) to a state-owned port bordering the Gulf of Mexico, the applicant shall make adequate assurance to the Mississippi Development Authority that federal participation in the cost of the project or projects has been committed contingent only upon availability of local participation in accordance with federal guidelines.

(v) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than Four Million Dollars ($4,000,000.00) out of the proceeds of bonds authorized to be issued in this chapter to be made available as interest-bearing loans to state-owned ports for the purpose of repairing, renovating, maintaining and improving the state-owned port. The Mississippi Development Authority shall establish an amortization schedule for the repayment of any loans made pursuant to this subparagraph. The state-owned port shall not spend any revenues for other purposes unless payments on the loan are being timely made according to the amortization schedule. The match requirements of this section and Section 57-61-9 shall not apply to any loan made pursuant to this subparagraph.

(f) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than Three Million Dollars ($3,000,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of making loans to municipalities operating county-owned ports or municipally owned ports for the purpose of acquiring land, buildings and other improvements and for repairing, renovating, maintaining and improving such ports. The Mississippi Development Authority shall establish an amortization schedule for the repayment of any loans made pursuant to this paragraph (f). A municipality shall not spend any port revenues for other purposes unless payments on the loan are being timely made according to the amortization schedule.

SOURCES: Laws, 1986, ch. 419, § 6; Laws, 1987, ch. 524; Laws, 1989, ch. 523, § 4; Laws, 1990, ch. 570, § 8; Laws, 1991, ch. 458, § 1; Laws, 1992, ch. 548 § 5; Laws, 2003, ch. 534, § 2; Laws, 2014, ch. 427, § 2, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment added the last sentence in (d).

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

Exclusion from amount of aggregate funds available for small communities of any funds specifically dedicated pursuant to this section, see § 57-61-15.

§ 57-61-13. Preferences in grants with respect to enterprise zones and certain municipalities.

Grants for improvements on publicly owned property necessary to complete eligible projects, consistent with the criteria set forth in this chapter, shall be given preference in enterprise zones designated as such by the board in the case of a strategic investment or in those municipalities which are experiencing three (3) or more of the following problems:

(a) Twenty percent (20%) or more of the population with income below the poverty level as reported in the most recent federal decennial census.

(b) The unemployment rate of the county is at least two percent (2%) greater than the state unemployment rate as reported by the Mississippi Employment Security Commission.

(c) Five percent (5%) or more loss of population between 1970 and 1980 as reported by the Bureau of the Census of the United States Department of Commerce.

(d) Significant business vacancy rate within the area, either in gross footage or acreage or in the number of business or industrial buildings.

SOURCES: Laws, 1986, ch. 419, § 7, eff from and after passage (approved March 31, 1986).

§ 57-61-14. Purchase of tangible personal property or services by private company with proceeds of bonds exempt from sales tax.

In accordance with Section 27-65-111, purchases of tangible personal property or services by a private company, as defined in this chapter, with proceeds of bonds issued under this chapter, shall be exempt from sales tax.

SOURCES: Laws, 1993, ch. 548, § 2, eff from and after passage (approved April 19, 1993).

§ 57-61-15. Allocation of bond proceeds; lien requirements; effect of failure to create predicted jobs; effect of failure to meet repayment obligations; assistance for firms currently operating elsewhere in state.

(1) Except for grants authorized for state-owned ports and for grants authorized under Section 57-61-32, Section 57-61-33 and Section 57-61-36, Mississippi Code of 1972, no more than Seven Million Five Hundred Thousand Dollars ($7,500,000.00) of the proceeds of bonds authorized to be issued under this chapter shall be made available for grants to municipalities; however, Two Million Five Hundred Thousand Dollars ($2,500,000.00) of such amount shall be made available for grants to small communities.

(2) In no case shall any municipality receive more than one (1) grant in any single fiscal year. This subsection shall not apply to grants authorized under Section 57-61-36, Mississippi Code of 1972.

(3) A minimum of twenty-five percent (25%) of the aggregate funds made available under this chapter shall be allocated to small communities. For the purpose of determining the aggregate funds available to make the allocation established in this subsection, there shall be excluded from inclusion therein any funds specifically dedicated pursuant to Sections 57-61-11(e) (iii) and (v), 57-61-32, 57-61-33, 57-61-34, 57-61-36, 57-61-39, 57-61-41 and 57-75-27, Mississippi Code of 1972.

(4) No loan or grant shall be made without substantiation of the provisions of Section 57-61-9, Mississippi Code of 1972.

(5) Except in the case of an application pursuant to Section 57-61-9(5)(a), Mississippi Code of 1972, funds loaned shall be secured by a lien and/or collateralized consistent with Section 57-61-9(1)(d), Mississippi Code of 1972, if required by the Mississippi Development Authority.

(6) Except in the case of an application pursuant to Section 57-61-9(5)(a), Mississippi Code of 1972, private companies which fail to create and maintain the number of jobs specified in an approved application shall be liable for, in the discretion of the Mississippi Development Authority, (a) a penalty equal to two percent (2%) greater than the current prime interest rate for the remainder of the loan made for their benefit, or (b) prepayment of the outstanding loan amount incurred by the municipality for their benefit, unless the penalty or a portion thereof is waived by the Mississippi Development Authority because the failure is due to circumstances outside the control of the private company. The penalty shall be payable in installments which the Mississippi Development Authority deems appropriate. Immediate notice of penalties and waivers of penalties, including the penalties in Section 57-61-9(1)(d), Mississippi Code of 1972, with the reasons thereof, shall be submitted by the Mississippi Development Authority to the Governor and the Legislature along with the Mississippi Development Authority's decision on the imposition of penalties and the reasons for this decision.

(7) Except in the case of an application pursuant to Section 57-61-9(5)(a), Mississippi Code of 1972, municipalities receiving loans which fail to meet their repayment obligations shall forfeit the right to receive their sales tax allocation and/or homestead exemption reimbursement in an amount sufficient to repay obligations due until such time as their indebtedness has been discharged or arrangements to discharge such indebtedness satisfactory to the Mississippi Development Authority have been made. Sales tax allocations and/or homestead exemption reimbursements forfeited hereby shall, upon demand by the Mississippi Development Authority made in writing upon the State Tax Commission, be paid to the Mississippi Development Authority and applied to the discharge of the obligation. The Mississippi Development Authority may prescribe such other penalties it deems necessary.

(8) Any municipality which has forfeited its sales tax allocation and/or homestead exemption reimbursement for twelve (12) months may levy an ad valorem tax on the taxable property therein for the purpose of meeting its repayment obligation. The revenue produced from the tax levy shall not be included within the ten percent (10%) growth limitation on ad valorem tax receipts for its general budget.

(9) This chapter is expressly not intended to encourage the relocation of a company from one (1) jurisdiction within the state to another. Any request by a local sponsor for assistance to be provided a firm which currently operates a similar business in the state must be accompanied by a demonstration that the total net increase in and maintenance of full-time equivalent jobs, using the current number of jobs in all similar businesses operated by the private company in the state as a base, shall be at least twenty-five percent (25%). This requirement shall not apply to private companies relocating from small business incubators.

SOURCES: Laws, 1986, ch. 419, § 8; Laws, 1989, ch. 523, § 5; Laws, 1990 Ex Sess, ch. 71, § 18; Laws, 1993, ch. 548, § 3; Laws, 1995, ch. 548, § 4; Laws, 1996, ch. 553, § 1; Laws, 2002, ch. 541, § 4; Laws, 2003, ch. 502, § 5; Laws, 2006, ch. 530, § 1; Laws, 2007, ch. 343, § 1, eff from and after passage (approved Mar. 14, 2007.)

Editor's Note — Section 57-61-39 referred to in (3) was replaced by Laws of 1994, ch. 560, § 5, eff from and after passage (approved April 5, 1994).

Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Cross References — Department of Revenue generally, see §§ 27-3-1 et seq.

Provisions relative to homestead exemption reimbursement, see § 27-33-41.

Provision relative to sales tax allocation, see § 27-65-75.

Mississippi Development Authority generally, see §§ 57-1-1 et seq.

Limitation on aggregate amount of grants authorized by this section, see § 57-61-25.

Application of the provisions of this section to evidences of indebtedness issued for borrowing money from the Mississippi Board of Economic and Community Development, see § 57-61-37.

ATTORNEY GENERAL OPINIONS

The expansion of the business of a corporate division to Batesville, while maintaining its operations in Crenshaw, did not constitute a "relocation" within the meaning of the statute, and the proposed increase in total jobs with that division from 180 to 232 was sufficient to exceed the statutory requirement of a 25% increase. McKenzie, III, Jan. 28, 2000, A.G. Op. #99-0706.

§ 57-61-17. Rulemaking authority of board; employment of professionals; annual reports; recordkeeping.

(1) The board may prescribe such application forms and promulgate such guidelines, rules and regulations as may be necessary to carry out the provisions of this chapter with respect to loan and grant conditions and criteria for evaluation of the economic benefit of proposed loans and grants and for determining and evaluating compliance with all the criteria established in this chapter.

(2) The board is authorized to engage legal services, financial advisors, appraisers and consultants, if needed, to review and close loans or grants made

pursuant to this chapter. The cost of such professionals shall be paid by the borrower or from bond proceeds as determined and approved by the board.

(3) On or before February 1, 1987, and on or before February 1 in each succeeding year in which loans are outstanding, the board shall provide the Legislature with a report on its activities for the preceding calendar year. The report shall contain, at a minimum, the following information:

(a) A list of the approved projects including the municipality, name of private company or governmental unit, cost of each project, amount of private investment, projected number of new jobs, location of each project, date of submission of the application by the local sponsor, type of project and estimated completion date of each project.

(b) A list of applications not approved.

(c) A list of pending applications.

(d) A list of projects where job projections are not being met or the project is not being completed and the penalty being applied or the reason a penalty is not being applied.

(e) Estimates of state and local tax revenue increases caused directly by projects.

(f) A list of projects approved or completed in years prior to the preceding year.

(g) Guidelines issued for the Business Investment Program.

(h) An overall statement of the progress of the program during the preceding year, along with recommendations for improvements.

(4) The board shall accumulate from the municipalities having approved projects the following data on an annual and cumulative basis:

(a) The number of jobs actually created by these projects.

(b) Estimated increased tax revenue caused by the projects.

SOURCES: Laws, 1986, ch. 419, § 9; Laws, 1992, ch. 461, § 8, eff from and after passage (approved May 5, 1992).

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected an error in the first sentence of (2), by substituting "this chapter" for "this act." The Joint Committee ratified the correction at its August 5, 2008, meeting.

§ 57-61-19. Certification of nondiscrimination as condition to loan.

No loan shall be made to a municipality under this chapter unless the municipality certifies to the department, in a form satisfactory to the department, that it shall not discriminate against any employee or against any applicant for employment because of race, religion, color, national origin, sex or age.

SOURCES: Laws, 1986, ch. 419, § 10, eff from and after passage (approved March 31, 1986).

§ 57-61-21. Creation of Mississippi Business Investment Fund and Mississippi Business Investment Sinking Fund; deposits and expenditures.

(1) There is hereby created a special fund in the State Treasury to be known as the Mississippi Business Investment Fund dedicated to the purpose of providing grants and/or loans to municipalities for the purpose of providing for improvements authorized by this chapter. All monies received by the board to carry out the purposes of this chapter, by legislative appropriation, issuance of bonds or otherwise, shall be deposited into the Mississippi Business Investment Fund. Expenditures authorized herein shall be paid by the State Treasurer upon warrants drawn from the Mississippi Business Investment Fund, and the State Auditor, or his successor to such duties, shall issue warrants upon requisitions signed by the Chairman or Executive Director of the Mississippi Board of Economic Development.

(2) Any monies repaid to the state from loans funded through the Mississippi Business Investment Fund shall be deposited into the Mississippi Business Investment Sinking Fund, which is hereby created in the State Treasury. Funds required in excess of the amounts available in the Mississippi Business Investment Sinking Fund to retire bonds issued pursuant to this chapter shall be appropriated from the State General Fund.

SOURCES: Laws, 1986, ch. 419, § 11, eff from and after passage (approved March 31, 1986).

Editor's Note — Section 27-104-1 provides that the term "Fiscal Management Board" shall mean the "Department of Finance and Administration".

Section 57-1-2 provides that executive director of the Mississippi Board of Economic Development shall mean the executive officer of the Mississippi Department of Economic and Community Development.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Use of proceeds from bonds issued under this chapter to fund purchase of buffer zone for NASA facility by Major Economic Impact Authority, see § 57-75-27.

§ 57-61-23. Payment of principal and interest on bonds and notes; cancellation of bonds and notes; annual reporting by State Treasurer; information to be included in executive budget; interest rate on loans.

(1) All bonds issued under the authority of this chapter shall be redeemed at maturity, together with all interest due, from time to time, on the bonds, and these principal and interest payments shall be paid by appropriation from the Mississippi Business Investment Sinking Fund, and/or the State General

Fund. All moneys paid into the Mississippi Business Investment Sinking Fund not appropriated to pay accruing bonds and interest shall be invested by the State Treasurer in such securities as are provided by law for the investment of the sinking funds of the state.

(2) In the event that all or any part of the bonds and notes are purchased, they shall be canceled and returned to the loan and transfer agent as canceled and paid bonds and notes and thereafter all payments of interest thereon shall cease and the canceled bonds, notes and coupons together with any other canceled bonds, notes and coupons shall be destroyed as promptly as possible after cancellation but not later than two (2) years after cancellation. A certificate evidencing the destruction of the canceled bonds, notes and coupons shall be provided by the loan and transfer agent to the seller.

(3) The State Treasurer shall determine and report to the State Fiscal Management Board and Legislative Budget Office by September 1 of each year the amount of money necessary for the payment of the principal of and interest on outstanding obligations for the following fiscal year and the times and amounts of the payments. It shall be the duty of the Governor to include in every executive budget submitted to the Legislature full information relating to the issuance of bonds and notes under the provisions of this chapter and the status of the Mississippi Business Investment Sinking Fund of the state for the payment of the principal of and interest on the bonds and notes.

(4) Except as otherwise provided by law, the rate of interest on any loan made using funds from the Mississippi Business Investment Fund may be negotiated by the department and shall be consistent with Section 57-61-11(b) and (c), Mississippi Code of 1972. Notwithstanding the provisions of any other law to the contrary, the interest rate charged shall not be set such that the aggregate of the interest, penalties and other payments to the state on loans and other assistance made using funds from the Mississippi Business Investment Fund will cause the bonds issued pursuant to this chapter to be deemed arbitrage bonds pursuant to Section 103(c) of the Internal Revenue Code of 1954 and the regulations promulgated thereunder. In the case of loans initially funded from the proceeds of notes and subsequently funded from renewal bonds and notes, the interest rate to be charged on the loans shall be established in accordance with this subsection upon the sale of bonds or notes, as the case may be, for the loans. It is the intention of the Legislature that the penalties assessed for breach of program conditions imposed upon private companies shall not be treated as interest income for purposes of Section 103(c) of the Internal Revenue Code of 1954.

SOURCES: Laws, 1986, ch. 419, § 12 1989, ch. 523, § 6, eff from and after passage (approved April 4, 1989).

Editor's Note — Section 27-104-1 provides that the term "Fiscal Management Board" shall mean the Department of Finance and Administration.

Cross References — Legislative Budget Office generally, see §§ 27-103-101 et seq. Department of Finance and Administration generally, see §§ 27-104-1 et seq.

Federal Aspects — Section 103(c) of Internal Revenue Code, see 26 USCS § 103(c).

RESEARCH REFERENCES

Am Jur. 12 Am. Jur. 2d, Bonds §§ 2-20, 41.

CJS. 11 C.J.S., Bonds §§ 7-37.

§ 57-61-25. Authorization of indebtedness; issuance of bonds; form of bonds; exemption from taxation by state; issuance of refunding bonds; taxable bonds.

(1) The seller is authorized to borrow, on the credit of the state upon receipt of a resolution from the Mississippi Development Authority requesting the same, money not exceeding the aggregate sum of Three Hundred Forty-six Million Five Hundred Thousand Dollars ($346,500,000.00), not including money borrowed to refund outstanding bonds, notes or replacement notes, as may be necessary to carry out the purposes of this chapter. The rate of interest on any such bonds or notes which are not subject to taxation shall not exceed the rates set forth in Section 75-17-101, Mississippi Code of 1972, for general obligation bonds.

(2) As evidence of indebtedness authorized in this chapter, general or limited obligation bonds of the state shall be issued from time to time to provide monies necessary to carry out the purposes of this chapter for such total amounts, in such form, in such denominations payable in such currencies (either domestic or foreign, or both) and subject to such terms and conditions of issue, redemption and maturity, rate of interest and time of payment of interest as the seller directs, except that such bonds shall mature or otherwise be retired in annual installments beginning not more than five (5) years from date thereof and extending not more than thirty (30) years from date thereof.

(3) All bonds and notes issued under authority of this chapter shall be signed by the chairman of the seller, or by his facsimile signature, and the official seal of the seller shall be affixed thereto, attested by the secretary of the seller.

(4) All bonds and notes issued under authority of this chapter may be general or limited obligations of the state, and the full faith and credit of the State of Mississippi as to general obligation bonds, or the revenues derived from projects assisted as to limited obligation bonds, are hereby pledged for the payment of the principal of and interest on such bonds and notes.

(5) Such bonds and notes and the income therefrom shall be exempt from all taxation in the State of Mississippi.

(6) The bonds may be issued as coupon bonds or registered as to both principal and interest, as the seller may determine. If interest coupons are attached, they shall contain the facsimile signature of the chairman and secretary of the seller.

(7) The seller is authorized to provide, by resolution, for the issuance of refunding bonds for the purpose of refunding any debt issued under the provisions of this chapter and then outstanding, either by voluntary exchange with the holders of the outstanding debt or to provide funds to redeem and the costs of issuance and retirement of the debt, at maturity or at any call date.

The issuance of the refunding bonds, the maturities and other details thereof, the rights of the holders thereof and the duties of the issuing officials in respect to the same shall be governed by the provisions of this section, insofar as they may be applicable.

(8) As to bonds issued hereunder and designated as taxable bonds by the seller, any immunity of the state to taxation by the United States government of interest on bonds or notes issued by the state is hereby waived.

(9) The proceeds of bonds issued under this chapter after April 9, 2002, may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in administering a program or providing assistance related to a project, or both, for which funding is provided from the use of proceeds of such bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each project by the Mississippi Development Authority. Reimbursement of reasonable actual and necessary costs for a program or project shall not exceed three percent (3%) of the proceeds of bonds issued for such program or project. Monies authorized for a particular program or project may not be used to reimburse administrative costs for unrelated programs or projects. Reimbursements under this subsection shall satisfy any applicable federal tax law requirements.

SOURCES: Laws, 1986, ch. 419, § 13; Laws, 1987, ch. 302, § 4; Laws, 1988, ch. 569, § 4; Laws, 1989, ch. 523, § 7; Laws, 1990 Ex Sess, ch. 71, § 19; Laws, 1993, ch. 548, § 4; Laws, 1995, ch. 548, § 5; Laws, 1996, ch. 553, § 2; Laws, 1998, ch. 559, § 1; Laws, 2002, ch. 541, § 1; Laws, 2002 2nd Ex Sess, ch. 3, § 1; Laws, 2003, ch. 502, § 1; Laws, 2004, 3rd Ex Sess., ch. 1, § 89; Laws, 2005, 3rd Ex Sess, ch. 1, § 35; Laws, 2007, ch. 517, § 1; Laws, 2008, ch. 506, § 8; Laws, 2010, ch. 533, § 27; Laws, 2011, ch. 480, § 7; Laws, 2013, ch. 569, § 32; Laws, 2014, ch. 530, § 10, eff from and after July 1, 2014.

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

Laws of 2014, § 530, § 47 provides:

"SECTION 47. Section 46 of this act shall take effect and be in force from and after January 1, 2014, Section 39 of this act shall take effect and be in force from and after its passage, and the remainder of this act shall take effect and be in force from and after July 1, 2014."

Amendment Notes — The 2013 amendment substituted "Three Hundred Forty-one Million Five Hundred Thousand Dollars ($341,500,000.00)" for "Three Hundred Thirty-one Million Five Hundred Thousand Dollars ($331,500,000.00)" in the first sentence of (1).

The 2014 amendment substituted "Three Hundred Forty-six Million Five Hundred Thousand Dollars ($346,500,000.00)" for "Three Hundred Forty-one Million Five Hundred Thousand Dollars ($341,500,000.00)" in (1).

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

Preparation and filing of quarterly report regarding net economic impact on state as result of incentive or assistance authorized under Sections 1 through 37 of Chapter 1, Laws of 2005, Third Extraordinary Session, see § 57-1-12.1.

Mississippi Development Authority to accommodate and support any entity using funds made available under Sections 1 through 37 of Chapter 1, Laws of 2005, Third Extraordinary Session wishing to have program of diversity in contracting, etc., see § 57-1-58.

Business or other entity convicted of intentionally hiring illegal immigrants is ineligible to receive any form of assistance made available under Sections 1 through 57 of Chapter 1, Laws of 2005, Third Extraordinary Session, see § 57-1-371.

RESEARCH REFERENCES

Am Jur. 12 Am. Jur. 2d, Bonds §§ 2-20, 41.

CJS. 11 C.J.S., Bonds §§ 7-37.

§ 57-61-27. Sale of bonds; issuance of temporary bonds; investment of bond proceeds; registration of bonds; payment of costs and expenses.

(1) Whenever bonds are issued, they shall be sold by the seller at a competitive or negotiated sale, from time to time, in such manner and at such price as may be determined by the seller to be most advantageous.

(2) When bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the seller or may be combined for sale as one (1) series with other general obligation bonds of the State of Mississippi.

(3) Until permanent bonds can be prepared, the seller may in its discretion issue, in lieu of permanent bonds, temporary bonds in such form and with such privileges as to registration and exchange for permanent bonds as may be determined by the seller.

(4) Pending their application to the purposes authorized, bond proceeds held or deposited by the State Treasurer may be invested or reinvested as are other funds in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or deposit of such funds shall be paid into the State Treasury to the credit of the Mississippi Business Investment Sinking Fund.

(5) The State Treasurer shall prepare the necessary registry book to be kept in the office of the duly authorized loan and transfer agent of the state for the registration of any bonds, at the request of owners thereof, according to the terms and conditions of issue directed by the seller.

(6) All costs and expenses in connection with the issue of and sale and registration of the bonds and notes in connection with this chapter may be paid from the proceeds of bonds and notes issued under this chapter.

(7) The seller may provide in the resolution authorizing the issuance of such bonds the employment of one or more persons or firms to assist in the sale of the bonds; to enter into contracts for banks or trust companies located either within or without the State of Mississippi to act as registrars, paying agents, transfer agents or otherwise, for rating of the bonds, and to purchase insurance.

SOURCES: Laws, 1986, ch. 419, § 14; Laws, 1991, ch. 397 § 1; Laws, 1992, ch. 548 § 6; Laws, 2010, ch. 533, § 28, eff from and after passage (approved Apr. 16, 2010.)

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

Cross References — Application of this section to temporary borrowing in anticipation of issuance of bonds under this chapter, see § 57-61-29.

RESEARCH REFERENCES

Am Jur. 12 Am. Jur. 2d, Bonds §§ 2-20, 41.

CJS. 11 C.J.S., Bonds §§ 7-37.

§ 57-61-29. Authorization of temporary borrowing; issuance of replacement notes and refunding bonds; payment of proceeds to State Treasurer; exemption from taxation.

(1) Pending the issuance of bonds of the state as authorized under this chapter, the seller is hereby authorized in accordance with the provisions of this chapter and on the credit of the state, to make temporary borrowings not to exceed two (2) years in anticipation of the issue of bonds in order to provide funds in such amounts as may, from time to time, be deemed advisable prior to the issue of bonds. In order to provide for and in connection with such temporary borrowings, the seller is hereby authorized in the name and on behalf of the state, and in accordance with Section 57-61-27(1), Mississippi Code of 1972, to enter into any purchase, loan or credit agreement, or agreements, or other agreement or agreements with any banks or trust companies or other lending institutions, investment banking firms or persons in the United States having power to enter into the same, which agreements may contain such provisions not inconsistent with the provisions of this chapter as may be authorized by the seller.

(2) All temporary borrowings made under this section shall be evidenced by notes of the state which shall be issued, from time to time, for such amounts not exceeding in the aggregate the applicable statutory and constitutional debt limitation, in such form and in such denominations and subject to terms and condition of sale and issue, prepayment or redemption and maturity, rate or rates of interest and time of payment of interest as the seller shall authorize and direct and in accordance with this chapter. Such authorization and direction may provide for the subsequent issuance of replacement notes to refund, upon issuance thereof, such notes, and may specify such other terms and conditions with respect to the notes and replacement notes thereby authorized for issuance as the seller may determine and direct.

(3) When the authorization and direction of the seller provide for the issuance of replacement notes, the seller is hereby authorized in the name and on behalf of the state to enter into agreements with any banks, trust

companies, investment banking firms or other institutions or persons in the United States having the power to enter the same:

(a) To purchase or underwrite an issue or series of issues of notes.

(b) To enter into any purchase, loan or credit agreements, and to draw moneys pursuant to any such agreements on the terms and conditions set forth therein and to issue notes as evidence of borrowings made under any such agreements.

(c) To appoint or act as issuing and paying agent or agents with respect to notes.

(d) To do such other acts as may be necessary or appropriate to provide for the payment, when due, of the principal of and interest on such notes.

Such agreements may provide for the compensation of any purchasers or underwriters of notes or replacement notes by payment of a fixed fee or commission at the time of issuance thereof, and for all other costs and expenses, including fees for agreements related to the notes issuing and paying agent costs. Costs and expenses of issuance may be paid from the proceeds of the notes.

(4) When the authorization and direction of the seller provides for the issuance of replacement notes, it shall, at or prior to the time of delivery of these notes or replacement notes, determine the principal amounts, dates of issue, interest rate or rates, rates of discount, denominations and all other terms and conditions relating to the issuance. The State Treasurer shall perform all acts and things necessary to pay or cause to be paid, when due, all principal of and interest on the notes being refunded by replacement notes and to assure that the same may draw upon any moneys available for that purpose pursuant to any purchase loan or credit agreements established with respect thereto, all subject to the authorization and direction of the seller.

(5) Outstanding notes evidencing such borrowings may be funded and retired by the issuance and sale of the bonds of the state as hereinafter authorized. The refunding bonds must be issued and sold not later than a date two (2) years after the date of issuance of the first notes evidencing such borrowings to the extent that payment of such notes has not otherwise been made or provided for by sources other than proceeds of replacement notes.

(6) The proceeds of all such temporary borrowing shall be paid to the State Treasurer to be held and disposed of in accordance with the provisions of Section 57-61-31, Mississippi Code of 1972.

(7) Notes issued hereunder, and the income therefrom, shall be exempt from all taxation in the State of Mississippi.

SOURCES: Laws, 1986, ch. 419, § 15; Laws, 1989, ch. 523, § 8, eff from and after passage (approved April 4, 1989).

RESEARCH REFERENCES

Am Jur. 12 Am. Jur. 2d, Bonds §§ 2-20, 41.

CJS. 11 C.J.S., Bonds §§ 7-37.

§ 57-61-31. Disposition of proceeds from bond sales and other funds.

(1) The proceeds realized from the sale of bonds and notes under this chapter, other than refunding bonds and replacement notes, shall be paid to the State Treasurer and deposited into the Mississippi Business Investment Fund and specifically dedicated to the purposes enumerated in this chapter.

(2) All nonfederal funds which may become available for the purposes of this chapter shall be deposited in the Mississippi Business Investment Fund and shall be allocated for the purposes of this chapter.

(3) The proceeds of the sale of refunding bonds and replacement notes shall be applied solely to the payment of the principal of and the accrued interest on and premium, if any, and costs of redemption of the bonds and notes for which such obligations have been issued.

SOURCES: Laws, 1986, ch. 419, § 16, eff from and after passage (approved March 31, 1986).

Cross References — Preparation and filing of quarterly report regarding net economic impact on state as result of incentive or assistance authorized under Sections 1 through 37 of Chapter 1, Laws of 2005, Third Extraordinary Session, see § 57-1-12.1.

Mississippi Development Authority to accommodate and support any entity using funds made available under Sections 1 through 37 of Chapter 1, Laws of 2005, Third Extraordinary Session wishing to have program of diversity in contracting, etc., see § 57-1-58.

Business or other entity convicted of intentionally hiring illegal immigrants is ineligible to receive any form of assistance made available under Sections 1 through 57 of Chapter 1, Laws of 2005, Third Extraordinary Session, see § 57-1-371.

Provisions authorizing temporary borrowing and requiring that the proceeds be paid to the State Treasurer to be held and disposed of in accordance with this section, see § 57-61-29.

§ 57-61-32. Funds to defray costs of state's share in North Mississippi fish hatchery.

(1) Notwithstanding any provision of this chapter to the contrary, the Commission on Wildlife, Fisheries and Parks shall certify to the department the amount of money necessary to defray the cost of the state's share in constructing the North Mississippi fish hatchery, which amount shall not be more than Four Million Dollars ($4,000,000.00); and the department shall, if funds have not otherwise been made available, provide a grant for such amount out of the proceeds of bonds issued under this chapter. Of the funds provided hereunder, any amounts not expended on the fish hatchery shall be remitted to the department for deposit into the Mississippi Business Investment Sinking Fund.

The private match requirements of Section 57-61-9(2)(d), Mississippi Code of 1972, shall not apply to any loan or grant made under this section.

(2) Repealed.

SOURCES: Laws, 1989, ch. 523, § 9; Laws, 1994, ch. 519, § 1; Laws, 1996, ch. 368, § 1; Laws, 1998, ch. 351, § 1; Laws, 2000, ch. 350, § 1; Laws, 2001, ch. 404, § 1, eff from and after July 1, 2001.

Editor's Note — Subsection (2) which related to funds to defray costs of the state's share in the lower East Pearl River water diversion project, was repealed by its own terms, effective December 31, 2002.

Cross References — Exclusion from total amount of grants that may be made available to municipalities of grants authorized under this section, see § 57-61-15.

§ 57-61-33. Grant for completion of Technology Transfer Center at National Space Technology Laboratory.

Notwithstanding any provision of this chapter to the contrary, the Bureau of Building, Grounds and Real Property Management of the Governor's Office of General Services shall certify to the Board of Economic Development the amount of money necessary to complete the construction, furnishing and equipping of the Technology Transfer Center at the National Space Technology Laboratory site in Hancock County, which amount shall not be more than Three Million Two Hundred Thousand Dollars ($3,200,000.00), and the board shall if funds have not otherwise been made available provide a grant to the bureau for such amount out of the proceeds of bonds authorized to be issued under this chapter. Any funds remaining unexpended upon completion of such project shall be deposited in the Mississippi Business Investment Sinking Fund.

SOURCES: Laws, 1986, ch. 419, § 17, eff from and after passage (approved March 31, 1986).

Editor's Note — Section 57-1-2 provides that wherever the term "Board of Economic Development" appears in the laws of the State of Mississippi, it shall mean the Department of Economic and Community Development.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — Exclusion from amount of aggregate funds available for small communities of any funds specifically dedicated pursuant to this section, see § 57-61-15.

Authorization to make loans to establish business incubation centers in order to accommodate and facilitate the transfer of technology from the Technology Transfer Center, see § 57-61-34.

§ 57-61-34. Loans for business incubation centers.

(1) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than Sixteen Million Dollars ($16,000,000.00) out of the proceeds of bonds authorized to be issued in this chapter to be made available as interest-bearing loans to municipalities or

private companies to aid in the establishment of business incubation centers and the creation of new and expanding research and development and technology-based business and industry. In making loans under this section, the Mississippi Development Authority shall attempt to provide for an equitable distribution of such loans among each of the congressional districts of this state in order to promote economic development across the entire state.

(2) The Mississippi Development Authority shall require that any private company receiving a loan under subsection (1) of this section enter into a binding commitment to meet the following minimum obligations, in return for obtaining a loan derived from the proceeds of any bonds issued under this section after July 1, 2005:

(a) The private company shall create a certain minimum number of jobs over a certain period of time, as determined by the authority, and such jobs must be held by persons eligible for employment in the United States under applicable state and federal law;

(b) The private company shall invest, over a certain period of time, a certain minimum amount of capital within the state, as determined by the authority; and

(c) The private company must meet such other requirements as the Mississippi Development Authority considers proper.

If the private company fails to satisfy any commitment under this subsection, then the company must repay an amount equal to all or a portion of the funds loaned by the state under this subsection, as determined by the Mississippi Development Authority.

(3) In exercising the power given it under this section, the Mississippi Development Authority shall work in conjunction with the University Research Center and may contract with the center to provide space and assistance to business incubation centers as the center is authorized to do pursuant to Section 57-13-13.

(4) The requirements of Section 57-61-9 shall not apply to any loan made under this section. The Mississippi Development Authority shall establish criteria and guidelines to govern loans made pursuant to this section.

SOURCES: Laws, 1988, ch. 569, § 1; Laws, 1989, ch. 523, § 10; Laws, 1990, ch. 570, § 9; Laws, 1991, ch. 584, § 2; Laws, 1998, ch. 559, § 2; Laws, 2002, ch. 541, § 2; Laws, 2003, ch. 502, § 2; Laws, 2005, 3rd Ex Sess, ch. 1, § 36, eff from and after July 1, 2005.

Editor's Note — Laws of 1990, ch. 570, § 20, effective July 1, 1990, provides as follows:

"SECTION 20. (1) Any attorney's fees paid as the result of the issuance of bonds under this act shall be in compliance with the limits on attorney's fees for bond issues as adopted by the State Bond Commission. Attorney's fees paid as the result of the issuance of bonds under this act shall be subject to negotiation but in no event shall exceed the limits established by the State Bond Commission. A detailed accounting of all expenses incurred by all persons, firms, corporations, associations or other organizations involved in such bond issues shall be submitted to the State Bond Commission within ninety (90) days after the issuance of such bonds and shall be a matter of public record.

"(2) No member of the Legislature, elected official or appointed official, or any partner or associate of any member of the Legislature, elected official or appointed official, shall derive any income from the issuance of any bonds or the disposition of any property under this act contrary to the provisions of Section 109, Mississippi Constitution of 1890, or Article 3, Chapter 4, Title 25, Mississippi Code of 1972.

"(3) In connection with the issuance and sale of bonds authorized under this act, the State Bond Commission shall select a bond attorney or attorneys who are listed in the 'Directory of Municipal Bond Dealers of the United States' and who are members in good standing of the Mississippi State Bar Association and licensed to practice law in the State of Mississippi; however, upon a finding by the commission spread on its official minutes that the public interest will best be served thereby, the commission may select any bond attorney or attorneys listed in the 'Directory of Municipal Bond Dealers of the United States'."

Cross References — University Research Center, see §§ 37-141-1 et seq.

Mississippi Development Authority generally, see §§ 57-1-1 et seq.

Preparation and filing of quarterly report regarding net economic impact on state as result of incentive or assistance authorized under Sections 1 through 37 of Chapter 1, Laws of 2005, Third Extraordinary Session, see § 57-1-12.1.

Mississippi Development Authority to accommodate and support any entity using funds made available under Sections 1 through 37 of Chapter 1, Laws of 2005, Third Extraordinary Session wishing to have program of diversity in contracting, etc., see § 57-1-58.

Business or other entity convicted of intentionally hiring illegal immigrants is ineligible to receive any form of assistance made available under Sections 1 through 57 of Chapter 1, Laws of 2005, Third Extraordinary Session, see § 57-1-371.

Exclusion from amount of aggregate funds available for small communities of any funds specifically dedicated pursuant to this section, see § 57-61-15.

§ 57-61-35. Representation of seller by Attorney General; payment of administrative, legal, and other expenses.

Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent the seller in issuing, selling and validating bonds herein provided for, and the seller is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds authorized under this chapter.

SOURCES: Laws, 1986, ch. 419, § 18; Laws, 2012, ch. 546, § 24, eff from and after July 1, 2012.

Cross References — Attorney General generally, see §§ 7-5-1 et seq.

RESEARCH REFERENCES

Am Jur. 12 Am. Jur. 2d, Bonds §§ 2-20, 41.

CJS. 11 C.J.S., Bonds §§ 7-37.

§ 57-61-36. Development infrastructure grant fund; housing development revolving loan fund; equipment and public facilities grant and loan fund; capital access program.

(1) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than Twelve Million Five Hundred Thousand Dollars ($12,500,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of making grants to municipalities through a Development Infrastructure Grant Fund to complete infrastructure related to new or expanded industry.

(2) [Repealed]

(3) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize the money transferred from the Housing Development Revolving Loan Fund and not more than Fifty-five Million One Hundred Thousand Dollars ($55,100,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of making grants or loans to municipalities through an equipment and public facilities grant and loan fund to aid in infrastructure-related improvements as determined by the Mississippi Development Authority, the purchase of equipment and in the purchase, construction or repair and renovation of public facilities. Any bonds previously issued for the Development Infrastructure Revolving Loan Program which have not been loaned or applied for are eligible to be administered as grants or loans. In making grants and loans under this section, the Mississippi Development Authority shall attempt to provide for an equitable distribution of such grants and loans among each of the congressional districts of this state in order to promote economic development across the entire state.

The requirements of Section 57-61-9 shall not apply to any grant made under this subsection. The Mississippi Development Authority may establish criteria and guidelines to govern grants made pursuant to this subsection.

(4) [Repealed]

(5)(a) The Mississippi Development Authority may establish a Capital Access Program and may contract with any financial institution to participate in the program upon such terms and conditions as the authority shall consider necessary and proper. The Mississippi Development Authority may establish loss reserve accounts at financial institutions that participate in the program and require payments by the financial institution and the borrower to such loss reserve accounts. All money in such loss reserve accounts is the property of the Mississippi Development Authority.

(b) Under the Capital Access Program a participating financial institution may make a loan to any borrower the Mississippi Development Authority determines to be qualified under rules and regulations adopted by the authority and be protected against losses from such loans as provided in the program. Under such rules and regulations as may be adopted by the Mississippi Development Authority, a participating financial institution may submit claims for the reimbursement for losses incurred as a result of default on loans by qualified borrowers.

(c) Under the Capital Access Program a participating financial institution may make a loan that is secured by the assignment of the proceeds of a contract between the borrower and a public entity if the Mississippi Development Authority determines the loan to be qualified under the rules and regulations adopted by the authority. Under such rules and regulations as may be adopted by the Mississippi Development Authority, a participating financial institution may submit an application to the authority requesting that a loan secured pursuant to this paragraph be funded under the Capital Access Program.

(d) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority may utilize not more than One Million Five Hundred Fifty Thousand Dollars ($1,550,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of making payments to loan loss reserve accounts established at financial institutions that participate in the Capital Access Program established by the Mississippi Development Authority; however, any portion of the bond proceeds authorized to be utilized by this paragraph that are not utilized for making payments to loss reserve accounts may be utilized by the Mississippi Development Authority to advance funds to financial institutions that participate in the Capital Access Program pursuant to paragraph (c) of this subsection.

(6) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than Two Hundred Thousand Dollars ($200,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of assisting Warren County, Mississippi, in the continuation and completion of the study for the proposed Kings Point Levee.

(7) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than One Hundred Thousand Dollars ($100,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of developing a long-range plan for coordinating the resources of the state institutions of higher learning, the community and junior colleges, the Mississippi Development Authority and other state agencies in order to promote economic development in the state.

(8) Notwithstanding any other provision of this chapter to the contrary, the Mississippi Development Authority shall use not more than One Hundred Fifty Thousand Dollars ($150,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of providing assistance to municipalities that have received Community Development Block Grant funds for repair, renovation and other improvements to buildings for use as community centers. Assistance provided to a municipality under this subsection shall be used by the municipality to match such Community Development Block Grant funds. The maximum amount of assistance that may be provided to a municipality under this subsection shall not exceed Seventy-five Thousand Dollars ($75,000.00) in the aggregate.

(9) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than Two Million

Dollars ($2,000,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of assisting in paying the costs of constructing a new spillway and related bridge and dam structures at Lake Mary in Wilkinson County, Mississippi, including construction of a temporary dam and diversion canal, removing existing structures, removing and stockpiling riprap, spillway construction, dam embankment construction, road access, constructing bridges and related structures, design and construction engineering and field testing.

(10) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than One Hundred Thousand Dollars ($100,000.00) out of the proceeds of bonds authorized to be issued in this chapter for the purpose of assisting the City of Holly Springs, Mississippi, in providing water and sewer and other infrastructure services in the Marshall, Benton and Tippah Counties area.

SOURCES: Laws, 1993, ch. 548, § 5; Laws, 1994, ch. 560, § 1; Laws, 1994, ch. 556, § 17; Laws, 1995, ch. 548, § 6; Laws, 1998, ch. 559, § 3; Laws, 1999, ch. 419, § 1; Laws, 2000, ch. 584, § 2; Laws, 2001, ch. 456, § 1; Laws, 2002, ch. 418 , § 1; Laws, 2002, ch. 541, § 3; Laws, 2003, ch. 502, § 3; Laws, 2004, ch. 384, § 1; Laws, 2004, 3rd Ex Sess., ch. 1, § 90; Laws, 2005, 3rd Ex Sess, ch. 1, § 37; Laws, 2006, ch. 434, § 1; Laws, 2007, ch. 356, § 1; Laws, 2007, ch. 517, § 2; Laws, 2008, ch. 506, § 9; Laws, 2010, ch. 533, § 29; Laws, 2010 2nd Ex Sess, ch. 30, § 6 effective from and after passage (approved Sept. 3, 2010); Laws, 2011, ch. 480, § 8; Laws, 2013, ch. 569, § 33; Laws, 2014, ch. 530, § 11, eff from and after July 1, 2014.

Joint Legislative Committee Note — Section 1 of ch. 418, Laws of 2002, effective July 1, 2002 (approved March 20, 2002), amended this section. Section 3 of ch. 541, Laws of 2002, effective from and after passage (approved April 9, 2002) also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109 which gives the Joint Legislative Committee on Compilation, Revision, and Publication authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication ratified the integration of these amendments as consistent with the legislative intent at the May 16, 2002, meeting of the Committee.

Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a typographical error in (3), as amended by Laws of 2002, ch. 541, § 3. The word “Thousand” was inserted after “Hundred” so that “Eight Million Five Hundred Dollars ($8,500,000.00)” will now read as “Eight Million Five Hundred Thousand Dollars ($8,500,000.00).” The Joint Committee ratified the correction at its May 16, 2002, meeting.

Section 1 of ch. 356, Laws of 2007, effective July 1, 2007 (approved March 15, 2007), amended this section. Section 2 of ch. 517, Laws of 2007, effective upon passage (approved April 10, 2007), also amended this section. As set out above, this section reflects the language of Section 2 of ch. 517, Laws, 2007, which contains language that specifically provides that it supersedes § 57-61-36 as amended by Laws of 2007, ch. 356.

Editor’s Note — Laws of 2004, 3rd Ex Sess, ch. 1, § 228 provides:

“SECTION 228. Except as otherwise provided in this act, any entity using funds authorized and made available under Chapter 1, 2004 Third Extraordinary Session, is authorized, in its discretion, to set aside not more than twenty percent (20%) of such funds for expenditure with small business concerns owned and controlled by socially and economically disadvantaged individuals. The term "socially and economically disadvantaged individuals" shall have the meaning ascribed to such term under Section 8(d) of the Small Business Act (15 USCS, Section 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this section."

Subsection (4) was repealed by its own terms effective from and after April 9, 2002.

Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

Laws of 2014, § 530, § 47 provides:

"SECTION 47. Section 46 of this act shall take effect and be in force from and after January 1, 2014, Section 39 of this act shall take effect and be in force from and after its passage, and the remainder of this act shall take effect and be in force from and after July 1, 2014."

Amendment Notes — The 2013 amendment substituted "Fifty Million One Hundred Thousand Dollars ($50,100,000.00)" for "Forty Million One Hundred Thousand Dollars ($40,100,000.00)" in the first sentence of (3); and minor stylistic changes.

The 2014 amendment substituted "Fifty-five Million One Hundred Thousand Dollars ($55,100,000.00)" for "Fifty Million One Hundred Thousand Dollars ($50,100,000.00)" in (3).

Cross References — Mississippi Home Corporation generally, see §§ 43-33-701 et seq.

Mississippi Development Authority, see §§ 57-1-1 et seq.

Preparation and filing of quarterly report regarding net economic impact on state as result of incentive or assistance authorized under Sections 1 through 37 of Chapter 1, Laws of 2005, Third Extraordinary Session, see § 57-1-12.1.

Mississippi Department of Economic and Community Development to accommodate and support any entity using funds made available under Sections 1 through 37 of Chapter 1, Laws of 2005, Third Extraordinary Session wishing to have program of diversity in contracting, etc., see § 57-1-58.

Business or other entity convicted of intentionally hiring illegal immigrants is ineligible to receive any form of assistance made available under Sections 1 through 57 of Chapter 1, Laws of 2005, Third Extraordinary Session, see § 57-1-371.

ATTORNEY GENERAL OPINIONS

Purpose of Section 57-61-36 is to provide source of revenues for making of interest-bearing loans for constructing housing for low or moderate income earners. Craig Aug. 19, 1993, A.G. Op. #93-0509.

In light of generally accepted meaning of term "construct" which is used, without further definition in Section 57-61-36, money provided for in that law can not be used for purposes other than actual building of houses for low and moderate income earners. Craig Aug. 19, 1993, A.G. Op. #93-0509.

Forgiveness of the debt owed on a loan to a county by the Mississippi Development Authority would violate Miss. Const. Art. 4, Section 100. Rohrlack, Oct. 18, 2002, A.G. Op. #02-0610.

Conversion of a loan to a county by the Mississippi Development Authority to a grant by administrative action so as to obliterate the debt would violate Miss. Const. Art. 4, Section 100. Rohrlack, Oct. 18, 2002, A.G. Op. #02-0610.

The grant referred to in subsection (1) of this section may not be used for loan repayment, but may only be used for "infrastructure related to new or expanded industry." Rohrlack, Oct. 18, 2002, A.G. Op. #02-0610.

§ 57-61-37. Authorization for municipalities to borrow; terms; evidence of indebtedness.

(1) Each municipality is hereby authorized and empowered to borrow money from the board pursuant to the terms and provisions of this chapter. Each municipality is further authorized and empowered to pay to the board such fees and charges for services hereunder as the board may prescribe.

(2) Each municipality is hereby authorized to evidence the borrowing of money from the board pursuant to this chapter by the issuance of evidences of indebtedness under the provisions of this section and to sell such evidences of indebtedness to the board to raise money for any purpose or purposes for which the board is authorized to loan money to such municipality under the terms of this chapter. Except as specifically provided in this chapter, such evidences of indebtedness shall be issued in accordance with the provisions of Sections 21-33-307, 21-33-309, 21-33-311, 21-33-313, 21-33-315, 21-33-317, 21-33-319, 21-33-321 and 21-33-323 in the case of cities or incorporated towns, and in accordance with the provisions of Sections 19-9-7, 19-9-9, 19-9-11, 19-9-13, 19-9-15, 19-9-17, 19-9-19, 19-9-21, 19-9-23, 19-9-25 and 19-9-29 in the case of counties. Bonds or other evidences of indebtedness which are issued either pursuant to this chapter, or pursuant to any other law as evidence of loans made pursuant to this chapter, shall not be deemed indebtedness within the meaning specified in Section 21-33-303 with regard to cities or incorporated towns, and in Section 19-9-5 with regard to counties. The preceding sentence shall apply to all such bonds and evidences of indebtedness outstanding as of the effective date of this provision and to all such bonds and evidences of indebtedness hereafter issued.

(3) In connection with the issuance of evidences of indebtedness under the provisions of this chapter by cities, incorporated towns and counties, the following provisions shall specifically apply:

(a) When publishing notice of intent to issue bonds as required under the terms of Section 21-33-307 or Section 19-9-11, as the case may be, the municipality shall publish such notice once a week for three (3) consecutive weeks, the first publication to be not less than twenty-one (21) days prior to the date set for authorizing such issuance and the last publication to be not more than seven (7) days prior to such date.

(b) Such evidences of indebtedness shall be secured: (i) by the revenues derived by the municipality from the ownership, operation or lease of the project or improvements funded with proceeds of the loan from the board to such municipality under the terms of this chapter or by loan repayments from the private company derived by the municipality from the loan to the private company of the proceeds of the loan from the board to such municipality under the terms of this chapter, but only to the extent, in whole or in part, pledged by the municipality, which pledge may be on a basis subordinate to other obligations or agreements of the municipality; (ii) by the sources of repayment provided for under the terms of subsections (7) and (8) of Section 57-61-15 of this chapter; (iii) and as provided by Chapter 33, Title 21, Mississippi Code of 1972, in the case of cities and incorporated towns, and Chapter 9, Title 19, Mississippi Code of 1972, in the case of counties but only in the event that the sources provided by items (i) and (ii) hereof are insufficient therefor. For the purposes of Section 27-39-321, the evidences of indebtedness issued hereunder shall be deemed to be "general obligation bonds."

(c) Such evidences of indebtedness may be sold only to the board at private sale and may be sold at such price or prices, in such manner and at such times as may be agreed to by the municipality and the board, and the municipality may pay all expenses, premiums, fees and commissions which it may deem necessary and advantageous in connection with the issuance and sale thereof and such evidences of indebtedness shall mature at such time or times not exceeding thirty (30) years and in such amounts and shall bear interest at such rate or rates as required for loans made under the provisions of this chapter and as may be agreed upon by the board and the municipality; provided, that in connection with financing a Navy home port, the municipality may obtain a letter of credit and pledge to the repayment thereof the same sources pledged to such evidences of indebtedness or negotiate and enter into a credit agreement, trust indenture or other agreement with any bank, trust company or other lending institution for the purpose of making or receiving any payments required to be made to the United States Navy to accommodate a Navy home port.

(d) The proceeds of such evidences of indebtedness shall be applied to the following: (i) the purpose for which such evidences of indebtedness were issued; (ii) the payment of all costs of issuance of such evidences of indebtedness; (iii) the payment of any fees and charges established by the board; (iv) the payment of interest on such evidences of indebtedness for a period of time not greater than the period of time estimated to be required to complete the purpose for which the evidences of indebtedness were issued or to the extent provided by resolution of the municipality and approved by the board; (v) the payment of any costs relating to obtaining or entering into a credit agreement, loan disbursement agreement, trust indenture or other agreement with any bank, trust company or other lending institution for the purpose of securing, making or receiving any payments required to be made to the United States Navy to accommodate a Navy home port.

(e) Evidences of indebtedness issued under this section may be validated in the manner and with the force and effect provided in Section 31-13-1 et seq.

(f) This section shall be deemed to provide an additional, alternate and complete method for the doing of the things authorized hereby and shall be deemed and construed to be supplemental to any provisions of any other laws and not in derogation of any such provisions. In connection with the issuance of evidences of indebtedness, a municipality shall not be required to comply with the provisions of any other law except as provided herein.

SOURCES: Laws, 1987, ch. 302, § 1; Laws, 1990, ch. 570, § 10, eff from and after July 1, 1990.

Editor's Note — Laws of 1990, ch. 570, § 20, effective July 1, 1990, provides as follows:

"SECTION 20. (1) Any attorney's fees paid as the result of the issuance of bonds under this act shall be in compliance with the limits on attorney's fees for bond issues as adopted by the State Bond Commission. Attorney's fees paid as the result of the issuance of bonds under this act shall be subject to negotiation but in no event shall exceed the limits established by the State Bond Commission. A detailed accounting of all expenses incurred by all persons, firms, corporations, associations or other organizations involved in such bond issues shall be submitted to the State Bond Commission within ninety (90) days after the issuance of such bonds and shall be a matter of public record.

"(2) No member of the Legislature, elected official or appointed official, or any partner or associate of any member of the Legislature, elected official or appointed official, shall derive any income from the issuance of any bonds or the disposition of any property under this act contrary to the provisions of Section 109, Mississippi Constitution of 1890, or Article 3, Chapter 4, Title 25, Mississippi Code of 1972.

"(3) In connection with the issuance and sale of bonds authorized under this act, the State Bond Commission shall select a bond attorney or attorneys who are listed in the 'Directory of Municipal Bond Dealers of the United States' and who are members in good standing of the Mississippi State Bar Association and licensed to practice law in the State of Mississippi; however, upon a finding by the commission spread on its official minutes that the public interest will best be served thereby, the commission may select any bond attorney or attorneys listed in the 'Directory of Municipal Bond Dealers of the United States'."

RESEARCH REFERENCES

Am Jur. 12 Am. Jur. 2d, Bonds §§ 2-20, 41.

CJS. 11 C.J.S., Bonds §§ 7-37.

§ 57-61-39. Repealed.

Repealed by Laws, 1994, ch. 560, § 5, eff from and after passage (approved April 5, 1994).

[Laws, 1992, ch. 461, § 6]

Editor's Note — Former § 57-61-39 related to equipment modernization program.

§ 57-61-41. Port Revitalization Revolving Loan Fund.

(1) Notwithstanding any provision of this chapter to the contrary, the Mississippi Development Authority shall utilize not more than Twelve Million Dollars ($12,000,000.00) out of the proceeds of bonds authorized to be issued in this chapter to be made available to state, county or municipal port and airport authorities through a Port Revitalization Revolving Loan Fund for the purpose of making loans to port authorities for the improvement of port and airport facilities to promote commerce and economic growth. Proceeds shall not be made available to provide any facilities for utilization by a gaming vessel.

(2) In exercising its authority, the Mississippi Development Authority shall work in conjunction with the Water Resources Council to establish criteria and guidelines to govern loans made pursuant to this section.

(3) The Mississippi Development Authority may, on a case-by-case basis, renegotiate the payment of principal and interest on loans made under this section to state, county and municipal port and airport authorities located in the six (6) most southern counties of the state covered by the Presidential Declaration of Major Disaster for the State of Mississippi (FEMA-1604-DR) dated August 29, 2005; however, the interest on the loans shall not be forgiven for a period of more than twenty-four (24) months and the maturity of the loans shall not be extended for a period of more than forty-eight (48) months.

SOURCES: Laws, 1992, ch. 461, § 7; Laws, 1993, ch. 548, § 6; Laws, 1995, ch. 548, § 7; Laws, 1996, ch. 553, § 3; Laws, 2003, ch. 502, § 4; Laws, 2006, ch. 545, § 8, eff from and after passage (approved Apr. 18, 2006.)

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

§ 57-61-42. Repealed.

[Laws, 1998, ch. 559, § 4; Laws, 2002, ch. 541, § 5, eff from and after passage (approved March 20, 2002.)]

Editor's Note — Former § 57-61-42 authorized the Mississippi Development Authority to utilize certain funds for a job recruitment, training, development, counseling, motivation and referral services program for less developed counties of the state.

§ 57-61-43. Small Farm Loan Program at Alcorn State University.

Notwithstanding any provision of this chapter to the contrary, the Department of Economic and Community Development shall utilize not more than One Million Five Hundred Thousand Dollars ($1,500,000.00) out of the proceeds of bonds issued in this chapter to provide a grant to provide funds for the Small Farm Loan Program at Alcorn State University.

The requirements of Section 57-61-9, Mississippi Code of 1972, shall not apply to the grant made under this section.

SOURCES: Laws, 1998, ch. 559, § 5, eff from and after July 2, 1998.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-61-44. Mississippi Industries for the Blind.

Notwithstanding any provision of this chapter to the contrary, the Department of Economic and Community Development may deposit not more than Seven Hundred Fifty Thousand Dollars ($750,000.00) out of the proceeds of bonds issued in this chapter into the revolving fund created in Section 43-3-103, Mississippi Code of 1972, for use by the Mississippi Industries for the Blind.

SOURCES: Laws, 1998, ch. 559, § 6, eff from and after July 2, 1998.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

CHAPTER 62

Mississippi Advantage Jobs Act

Sec.

57-62-1. Short title.
57-62-3. Legislative intent.
57-62-5. Definitions [Repealed effective July 1, 2019].
57-62-7. Mississippi Development Authority to determine if establishment engaged in qualified business or industry.
57-62-9. Incentive payments; qualifications; extension of time for receipt of incentive payments and waiver of job maintenance and creation requirements under certain circumstances [Repealed effective July 1, 2019].
57-62-11. Mississippi Advantage Jobs Incentive Payment Fund; creation; purpose; administration.
57-62-13. Qualified business or industry to file claim for incentive payment; qualifications and requirements for receiving incentive payments.
57-62-15. Promulgation of rules and regulations.
57-62-17. Annual report.

§ 57-62-1. Short title.

This chapter shall be known and may be cited as the "Mississippi Advantage Jobs Act."

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 24, eff from and after passage (approved Aug. 30, 2000.)

Editor's Note — Laws, 2000, 2nd Ex Sess, ch. 1, § 1 provides:
"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative.'"

§ 57-62-3. Legislative intent.

It is the intent of the Legislature that:

(a) The State of Mississippi provide appropriate incentives to support the establishment of quality business and industry that hold the promise of significant development of the economy of the State of Mississippi through the creation of quality jobs;

(b) The amount of incentives provided under this chapter in connection with a particular establishment shall be directly related to the jobs created as a result of the establishment locating in the State of Mississippi;

(c) The Mississippi Development Authority and the Department of Revenue shall implement the provisions of this chapter and exercise all powers as authorized in this chapter; however, the application of this chapter or the offering of any of its incentives as to any particular qualified business or industry shall be in the sole discretion of the Mississippi Development Authority. The exercise of powers conferred by this chapter shall be deemed and held to be the performance of essential public purposes; and

(d) Nothing in this chapter shall be construed to constitute a guarantee or assumption by the State of Mississippi of any debt of any individual, company, corporation or association nor to authorize the credit of the State of Mississippi to be given, pledged or loaned to any individual, company, corporation or association. Also, nothing in this chapter gives any right to any qualified business or industry to the incentives contained herein unless said incentive is given by the Mississippi Development Authority pursuant to this chapter.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 25; Laws, 2010, ch. 533, § 31, eff from and after passage (approved Apr. 16, 2010.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative.'"

Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

§ 57-62-5. Definitions [Repealed effective July 1, 2019].

[For businesses or industries that received or applied for incentive payments prior to July 1, 2005, this section shall read as follows:]

As used in this chapter, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Qualified business or industry" means any corporation, limited liability company, partnership, sole proprietorship, business trust or other legal entity and subunits or affiliates thereof, pursuant to rules and regulations of the MDA, which provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred twenty-five percent (125%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. An establishment shall not be considered to be a qualified business or industry unless it offers, or will offer within one hundred eighty (180) days of the date it receives the first incentive payment pursuant to the provisions of this chapter, a basic health benefits plan to the individuals it employs in new direct jobs in this state which is approved by the MDA. Qualified business or industry does not include retail business or gaming business;

(b) "New direct job" means full-time employment in this state in a qualified business or industry that has qualified to receive an incentive payment pursuant to this chapter, which employment did not exist in this state before the date of approval by the MDA of the application of the qualified business or industry pursuant to the provisions of this chapter. "New direct job" shall include full-time employment in this state of employees who are employed by an entity other than the establishment that has qualified to receive an incentive payment and who are leased to the qualified business or industry, if such employment did not exist in this state before the date of approval by the MDA of the application of the establishment;

(c) "Full-time job" means a job of at least thirty-five (35) hours per week;

(d) "Estimated direct state benefits" means the tax revenues projected by the MDA to accrue to the state as a result of the qualified business or industry;

(e) "Estimated direct state costs" means the costs projected by the MDA to accrue to the state as a result of the qualified business or industry;

(f) "Estimated net direct state benefits" means the estimated direct state benefits less the estimated direct state costs;

(g) "Net benefit rate" means the estimated net direct state benefits computed as a percentage of gross payroll, provided that:

(i) Except as otherwise provided in this paragraph (g), the net benefit rate may be variable and shall not exceed four percent (4%) of the gross payroll; and shall be set in the sole discretion of the MDA;

(ii) In no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits;

(h) "Gross payroll" means wages for new direct jobs of the qualified business or industry; and

(i) "MDA" means the Mississippi Development Authority.

[For businesses or industries that received or applied for incentive payments from and after July 1, 2005, but prior to July 1, 2010, this section shall read as follows:]

As used in this chapter, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Qualified business or industry" means any corporation, limited liability company, partnership, sole proprietorship, business trust or other legal entity and subunits or affiliates thereof, pursuant to rules and regulations of the MDA, which:

(i) Is a data/information processing enterprise meeting minimum criteria established by the MDA that provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred percent (100%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser, and creates not less than two hundred (200) new direct jobs if the enterprise is located in a Tier One or Tier Two area (as such areas are designated in accordance with Section 57-73-21), or which creates not less than one hundred (100) new jobs if the enterprise is located in a Tier Three area (as such areas are designated in accordance with Section 57-73-21);

(ii) Is a manufacturing or distribution enterprise meeting minimum criteria established by the MDA that provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred ten percent (110%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser, invests not less than Twenty Million Dollars ($20,000,000.00) in land, buildings and equipment, and creates not less than fifty (50) new direct jobs if the enterprise is located in a Tier One or Tier Two area (as such areas are designated in accordance with Section 57-73-21), or which creates not less than twenty (20) new jobs if the enterprise is located in a Tier Three area (as such areas are designated in accordance with Section 57-73-21);

(iii) Is a corporation, limited liability company, partnership, sole proprietorship, business trust or other legal entity and subunits or affiliates thereof, pursuant to rules and regulations of the MDA, which provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred twenty-five percent (125%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser, and creates not less than twenty-five (25) new direct jobs if the enterprise is located in a Tier One or Tier Two area (as such areas are designated in accordance with Section 57-73-21), or which creates not less than ten (10) new jobs if the enterprise is located in a Tier Three area (as such areas are designated in accordance with Section 57-73-21). An establishment shall not be considered to be a qualified business or industry unless it offers, or will offer within one hundred eighty (180) days of the date it receives the first incentive payment pursuant to the provisions of this chapter, a basic health benefits plan to the individuals it employs in new direct jobs in this state which is approved by the MDA. Qualified business or industry does not include retail business or gaming business; or

(iv) Is a research and development or a technology intensive enterprise meeting minimum criteria established by the MDA that provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred fifty percent (150%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser, and creates not less than ten (10) new direct jobs.

An establishment shall not be considered to be a qualified business or industry unless it offers, or will offer within one hundred eighty (180) days of the date it receives the first incentive payment pursuant to the provisions of this chapter, a basic health benefits plan to the individuals it employs in new direct jobs in this state which is approved by the MDA. Qualified business or industry does not include retail business or gaming business.

(b) "New direct job" means full-time employment in this state in a qualified business or industry that has qualified to receive an incentive payment pursuant to this chapter, which employment did not exist in this state before the date of approval by the MDA of the application of the qualified business or industry pursuant to the provisions of this chapter. "New direct job" shall include full-time employment in this state of employees who are employed by an entity other than the establishment that has qualified to receive an incentive payment and who are leased to the qualified business or industry, if such employment did not exist in this state before the date of approval by the MDA of the application of the establishment.

(c) "Full-time job" or "full-time employment" means a job of at least thirty-five (35) hours per week.

(d) "Estimated direct state benefits" means the tax revenues projected by the MDA to accrue to the state as a result of the qualified business or industry.

(e) "Estimated direct state costs" means the costs projected by the MDA to accrue to the state as a result of the qualified business or industry.

(f) "Estimated net direct state benefits" means the estimated direct state benefits less the estimated direct state costs.

(g) "Net benefit rate" means the estimated net direct state benefits computed as a percentage of gross payroll, provided that:

(i) Except as otherwise provided in this paragraph (g), the net benefit rate may be variable and shall not exceed four percent (4%) of the gross payroll; and shall be set in the sole discretion of the MDA;

(ii) In no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits.

(h) "Gross payroll" means wages for new direct jobs of the qualified business or industry.

(i) "MDA" means the Mississippi Development Authority.

[For businesses or industries that apply for incentive payments from and after July 1, 2010, this section shall read as follows:]

As used in this chapter, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Qualified business or industry" means any corporation, limited liability company, partnership, sole proprietorship, business trust or other legal entity and subunits or affiliates thereof, pursuant to rules and regulations of the MDA, which:

(i) Is a data/information processing enterprise meeting minimum criteria established by the MDA that provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred percent (100%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser, and creates not less than two hundred (200) new direct jobs;

(ii) Is acorporation, limited liability company, partnership, sole proprietorship, business trust or other legal entity and subunits or affiliates thereof, pursuant to rules and regulations of the MDA, which provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred ten percent (110%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser, and creates not less than twenty-five (25) new direct jobs; or

(iii) Is a corporation, limited liability company, partnership, sole proprietorship, business trust or other legal entity and subunits or affiliates thereof, pursuant to rules and regulations of the MDA, which is a manufacturer that:

1. Provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred ten percent (110%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser;

2. Has a minimum of five thousand (5,000) existing employees as of the last day of the previous calendar year; and

3. MDA determines will create not less than three thousand (3,000) new direct jobs within forty-eight (48) months of the date the MDA determines that the applicant is qualified to receive incentive payments.

An establishment shall not be considered to be a qualified business or industry unless it offers, or will offer within one hundred eighty (180) days of the date it receives the first incentive payment pursuant to the provisions of this chapter, a basic health benefits plan to the individuals it employs in new direct jobs in this state which is approved by the MDA. Qualified business or industry does not include retail business or gaming business.

(b) "New direct job" means full-time employment in this state in a qualified business or industry that has qualified to receive an incentive payment pursuant to this chapter, which employment did not exist in this state before the date of approval by the MDA of the application of the qualified business or industry pursuant to the provisions of this chapter. "New direct job" shall include full-time employment in this state of employees who are employed by an entity other than the establishment that has qualified to receive an incentive payment and who are leased to the qualified business or industry, if such employment did not exist in this state before the date of approval by the MDA of the application of the establishment.

(c) "Full-time job" or "full-time employment" means a job of at least thirty-five (35) hours per week.

(d) "Gross payroll" means wages for new direct jobs of the qualified business or industry.

(e) "MDA" means the Mississippi Development Authority.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 26; Laws, 2003, ch. 422, § 1; Laws, 2004, ch. 572, § 52; Laws, 2005, 3rd Ex Sess, ch. 1, § 69; Laws, 2008, 1st Ex Sess, ch. 30, § 52; Laws, 2010, ch. 533, § 32; Laws, 2010, ch. 559, § 52; Laws, 2011, ch. 471, § 53; Laws, 2011, 1st Ex Sess, ch. 1, § 3; reenacted without change, Laws, 2012, ch. 515, § 52, eff from and after July 1, 2012.

Joint Legislative Committee Note — Section 52 of ch. 559, Laws of 2010, effective July 1, 2010 (approved May 12, 2010), amended this section. Section 32 of ch. 533, Laws of 2010, effective upon passage (approved April 16, 2010), also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee ratified the integration of these amendments as consistent with the legislative intent at its July 22, 2010, meeting.

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

"SECTION 60. This act shall stand repealed on July 1, 2019."

§ 57-62-7. Mississippi Development Authority to determine if establishment engaged in qualified business or industry.

The MDA shall determine, upon initial application on a form approved by the MDA, if an establishment is engaged in a qualified business or industry.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 27, eff from and after passage (approved Aug. 30, 2000.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

§ 57-62-9. Incentive payments; qualifications; extension of time for receipt of incentive payments and waiver of job maintenance and creation requirements under certain circumstances [Repealed effective July 1, 2019].

[For businesses or industries that received or applied for incentive payments prior to July 1, 2005, this section shall read as follows:]

(1) Except as otherwise provided in this section, a qualified business or industry that meets the qualifications specified in this chapter may receive

quarterly incentive payments for a period not to exceed ten (10) years from the Department of Revenue pursuant to the provisions of this chapter in an amount which shall be equal to the net benefit rate multiplied by the actual gross payroll of new direct jobs for a calendar quarter as verified by the Mississippi Department of Employment Security, but not to exceed the amount of money previously paid into the fund by the employer. A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv)1 may elect the date upon which the ten-year period will begin. Such date may not be later than sixty (60) months after the date the business or industry applied for incentive payments.

(2)(a) A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to receive incentive payments for an additional period not to exceed five (5) years beyond the expiration date of the initial ten-year period if:

(i) The qualified business or industry creates at least three thousand (3,000) new direct jobs within five (5) years after the date the business or industry commences commercial production;

(ii) Within five (5) years after the date the business or industry commences commercial production, the average annual wage of the jobs is at least one hundred fifty percent (150%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The criteria for the average annual wage requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of creation of the minimum number of jobs, and the threshold established at that time will remain constant for the duration of the additional period; and

(iii) The qualified business or industry meets and maintains the job and wage requirements of subparagraphs (i) and (ii) of this paragraph (a) for four (4) consecutive calendar quarters.

(b) A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv)1 and qualified to receive incentive payments for the additional period provided in paragraph (a) of this subsection (2) may apply to the MDA to receive incentive payments for an additional period not to exceed ten (10) years beyond the expiration date of the additional period provided in paragraph (a) of this subsection (2) if:

(i) The qualified business or industry creates at least four thousand (4,000) new direct jobs after qualifying for the additional incentive period provided in paragraph (a) of this subsection (2) but before the expiration of the additional period. For purposes of determining whether the business or industry meets the minimum jobs requirement of this subparagraph (i), the number of jobs the business or industry created in order to meet the minimum jobs requirement of paragraph (a) of this subsection (2) shall be subtracted from the minimum jobs requirement of this subparagraph (i);

(ii) The average annual wage of the jobs is at least one hundred fifty percent (150%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The criteria for the average annual wage requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of creation of the minimum number of jobs, and the threshold established at that time will remain constant for the duration of the additional period; and

(iii) The qualified business or industry meets and maintains the job and wage requirements of subparagraphs (i) and (ii) of this paragraph (b) for four (4) consecutive calendar quarters.

(3) In order to receive incentive payments, an establishment shall apply to the MDA. The application shall be on a form prescribed by the MDA and shall contain such information as may be required by the MDA to determine if the applicant is qualified.

(4) In order to qualify to receive such payments, the establishment applying shall be required to:

(a) Be engaged in a qualified business or industry;

(b) Provide an average salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred twenty-five percent (125%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The criteria for this requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of application, and the threshold established upon application will remain constant for the duration of the project;

(c) The business or industry must create and maintain a minimum of ten (10) full-time jobs in counties that have an average unemployment rate over the previous twelve-month period which is at least one hundred fifty percent (150%) of the most recently published state unemployment rate, as determined by the Mississippi Department of Employment Security or in Tier Three counties as determined under Section 57-73-21. In all other counties, the business or industry must create and maintain a minimum of twenty-five (25) full-time jobs. The criteria for this requirement shall be based on the designation of the county at the time of the application. The threshold established upon the application will remain constant for the duration of the project. The business or industry must meet its job creation commitment within twenty-four (24) months of the application approval. However, if the qualified business or industry is applying for incentive payments for an additional period under subsection (2) of this section, the business or industry must comply with the applicable job and wage requirements of subsection (2) of this section.

(5) The MDA shall determine if the applicant is qualified to receive incentive payments. If the applicant is determined to be qualified by the MDA, the MDA shall conduct a cost/benefit analysis to determine the estimated net direct state benefits and the net benefit rate applicable for a period not to exceed ten (10) years and to estimate the amount of gross payroll for the period. If the applicant is determined to be qualified to receive incentive payments for an additional period under subsection (2) of this section, the MDA shall conduct a cost/benefit analysis to determine the estimated net direct state benefits and the net benefit rate applicable for the appropriate additional period and to estimate the amount of gross payroll for the additional period. In conducting such cost/benefit analysis, the MDA shall consider quantitative factors, such as the anticipated level of new tax revenues to the state along with the cost to the state of the qualified business or industry, and such other criteria as deemed appropriate by the MDA, including the adequacy of retirement benefits that the business or industry provides to individuals it employs in new direct jobs in this state. In no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits. Once the qualified business or industry is approved by the MDA, an agreement shall be deemed to exist between the qualified business or industry and the State of Mississippi, requiring the continued incentive payment to be made as long as the qualified business or industry retains its eligibility.

(6) Upon approval of such an application, the MDA shall notify the Department of Revenue and shall provide it with a copy of the approved application and the estimated net direct state benefits. The Department of Revenue may require the qualified business or industry to submit such additional information as may be necessary to administer the provisions of this chapter. The qualified business or industry shall report to the Department of Revenue periodically to show its continued eligibility for incentive payments. The qualified business or industry may be audited by the Department of Revenue to verify such eligibility. In addition, the State Auditor may conduct performance and compliance audits under this chapter according to Section 7-7-211(o) and may bill the oversight agency.

(7) If the qualified business or industry is located in an area that has been declared by the Governor to be a disaster area and as a result of the disaster the business or industry is unable to create or maintain the full-time jobs required by this section:

(a) The Commissioner of Revenue may extend the period of time that the business or industry may receive incentive payments for a period of time not to exceed two (2) years;

(b) The Commissioner of Revenue may waive the requirement that a certain number of jobs be maintained for a period of time not to exceed twenty-four (24) months; and

(c) The MDA may extend the period of time within which the jobs must be created for a period of time not to exceed twenty-four (24) months.

[For businesses or industries that received or applied for incentive payments from and after July 1, 2005, but prior to July 1, 2010, this section shall read as follows:]

(1)(a) Except as otherwise provided in this section, a qualified business or industry that meets the qualifications specified in this chapter may receive quarterly incentive payments for a period not to exceed ten (10) years from the Department of Revenue pursuant to the provisions of this chapter in an amount which shall be equal to the net benefit rate multiplied by the actual gross payroll of new direct jobs for a calendar quarter as verified by the Mississippi Department of Employment Security, but not to exceed:

(i) Ninety percent (90%) of the amount of money previously paid into the fund by the employer if the employer provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred seventy-five percent (175%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser;

(ii) Eighty percent (80%) of the amount of money previously paid into the fund by the employer if the employer provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred twenty-five percent (125%) but less than one hundred seventy-five percent (175%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser; or

(iii) Seventy percent (70%) of the amount of money previously paid into the fund by the employer if the employer provides an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of less than one hundred twenty-five percent (125%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser.

(b) A qualified business or industry that is a project as defined in Section 57-75-5(f) (iv)1 may elect the date upon which the ten-year period will begin. Such date may not be later than sixty (60) months after the date the business or industry applied for incentive payments.

(2)(a) A qualified business or industry that is a project as defined in Section 57-75-5(f) (iv)1 may apply to the MDA to receive incentive payments for an additional period not to exceed five (5) years beyond the expiration date of the initial ten-year period if:

(i) The qualified business or industry creates at least three thousand (3,000) new direct jobs within five (5) years after the date the business or industry commences commercial production;

(ii) Within five (5) years after the date the business or industry commences commercial production, the average annual wage of the jobs is at least one hundred fifty percent (150%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The criteria for the average annual wage requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of creation of the minimum number of jobs, and the threshold established at that time will remain constant for the duration of the additional period; and

(iii) The qualified business or industry meets and maintains the job and wage requirements of subparagraphs (i) and (ii) of this paragraph (a) for four (4) consecutive calendar quarters.

(b) A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv)1 and qualified to receive incentive payments for the additional period provided in paragraph (a) of this subsection (2) may apply to the MDA to receive incentive payments for an additional period not to exceed ten (10) years beyond the expiration date of the additional period provided in paragraph (a) of this subsection (2) if:

(i) The qualified business or industry creates at least four thousand (4,000) new direct jobs after qualifying for the additional incentive period provided in paragraph (a) of this subsection (2) but before the expiration of the additional period. For purposes of determining whether the business or industry meets the minimum jobs requirement of this subparagraph (i), the number of jobs the business or industry created in order to meet the minimum jobs requirement of paragraph (a) of this subsection (2) shall be subtracted from the minimum jobs requirement of this subparagraph (i);

(ii) The average annual wage of the jobs is at least one hundred fifty percent (150%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The criteria for the average annual wage requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of creation of the minimum number of jobs, and the threshold established at that time will remain constant for the duration of the additional period; and

(iii) The qualified business or industry meets and maintains the job and wage requirements of subparagraphs (i) and (ii) of this paragraph (b) for four (4) consecutive calendar quarters.

(3) In order to receive incentive payments, an establishment shall apply to the MDA. The application shall be on a form prescribed by the MDA and shall contain such information as may be required by the MDA to determine if the applicant is qualified.

(4)(a) In order to qualify to receive such payments, the establishment applying shall be required to meet the definition of the term "qualified business or industry ";

(b) The criteria for the average annual salary requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of application, and the threshold established upon application will remain constant for the duration of the project;

(c) The business or industry must meet its job creation commitment within twenty-four (24) months of the application approval. However, if the qualified business or industry is applying for incentive payments for an additional period under subsection (2) of this section, the business or industry must comply with the applicable job and wage requirements of subsection (2) of this section.

(5)(a) The MDA shall determine if the applicant is qualified to receive incentive payments.

(b) If the applicant is determined to be qualified to receive incentive payments for an additional period under subsection (2) of this section, the MDA shall conduct a cost/benefit analysis to determine the estimated net direct state benefits and the net benefit rate applicable for the appropriate additional period and to estimate the amount of gross payroll for the additional period. In conducting such cost/benefit analysis, the MDA shall consider quantitative factors, such as the anticipated level of new tax revenues to the state along with the cost to the state of the qualified business or industry, and such other criteria as deemed appropriate by the MDA, including the adequacy of retirement benefits that the business or industry provides to individuals it employs in new direct jobs in this state. In no event shall incentive payments, cumulatively, exceed the estimated net direct state benefits. Once the qualified business or industry is approved by the MDA, an agreement shall be deemed to exist between the qualified business or industry and the State of Mississippi, requiring the continued incentive payment to be made as long as the qualified business or industry retains its eligibility.

(6) Upon approval of such an application, the MDA shall notify the Department of Revenue and shall provide it with a copy of the approved application and the estimated net direct state benefits. The Department of Revenue may require the qualified business or industry to submit such additional information as may be necessary to administer the provisions of this chapter. The qualified business or industry shall report to the Department of Revenue periodically to show its continued eligibility for incentive payments. The qualified business or industry may be audited by the Department of Revenue to verify such eligibility. In addition, the State Auditor may conduct performance and compliance audits under this chapter according to Section 7-7-211(o) and may bill the oversight agency.

(7) If the qualified business or industry is located in an area that has been declared by the Governor to be a disaster area and as a result of the

disaster the business or industry is unable to create or maintain the full-time jobs required by this section:

(a) The Commissioner of Revenue may extend the period of time that the business or industry may receive incentive payments for a period of time not to exceed two (2) years;

(b) The Commissioner of Revenue may waive the requirement that a certain number of jobs be maintained for a period of time not to exceed twenty-four (24) months; and

(c) The MDA may extend the period of time within which the jobs must be created for a period of time not to exceed twenty-four (24) months.

[For businesses or industries that apply for incentive payments from and after July 1, 2010, this section shall read as follows:]

(1)(a) Except as otherwise provided in this section, a qualified business or industry that meets the qualifications specified in this chapter may receive quarterly incentive payments for a period not to exceed ten (10) years from the Department of Revenue pursuant to the provisions of this chapter in an amount which shall be equal to ninety percent (90%) of the amount of actual income tax withheld for employees with new direct jobs, but in no event more than four percent (4%) of the total annual salary paid for new direct jobs during such period, excluding benefits which are not subject to Mississippi income taxes.

(b) A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv)1 may elect the date upon which the ten-year period will begin. Such date may not be later than sixty (60) months after the date the business or industry applied for incentive payments.

(c) A qualified business or industry as defined in Section 57-62-5(a)(iii) may elect the date upon which the ten-year period will begin and may elect to begin receiving incentive payments as early as the second quarter after that date. Incentive payments will be calculated on all jobs above the existing number of jobs as of the date the MDA determines that the applicant is qualified to receive incentive payments. In the event that the qualified business or industry falls below the number of existing jobs at the time of determination that the applicant is qualified to receive the incentive payment, the incentive payment shall cease until the qualified business or industry once again exceeds that number. If after forty-eight (48) months, the qualified business or industry has failed to create at least three thousand (3,000) new direct jobs, incentive payments shall cease and the qualified business or industry shall not be qualified to receive further incentive payments.

(2)(a) A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv)1 may apply to the MDA to receive incentive payments for an additional period not to exceed five (5) years beyond the expiration date of the initial ten-year period if:

(i) The qualified business or industry creates at least three thousand (3,000) new direct jobs within five (5) years after the date the business or industry commences commercial production;

(ii) Within five (5) years after the date the business or industry commences commercial production, the average annual wage of the jobs is at least one hundred fifty percent (150%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The criteria for the average annual wage requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of creation of the minimum number of jobs, and the threshold established at that time will remain constant for the duration of the additional period; and

(iii) The qualified business or industry meets and maintains the job and wage requirements of subparagraphs (i) and (ii) of this paragraph (a) for four (4) consecutive calendar quarters.

(b) A qualified business or industry that is a project as defined in Section 57-75-5(f)(iv)1 and qualified to receive incentive payments for the additional period provided in paragraph (a) of this subsection (2) may apply to the MDA to receive incentive payments for an additional period not to exceed ten (10) years beyond the expiration date of the additional period provided in paragraph (a) of this subsection (2) if:

(i) The qualified business or industry creates at least four thousand (4,000) new direct jobs after qualifying for the additional incentive period provided in paragraph (a) of this subsection (2) but before the expiration of the additional period. For purposes of determining whether the business or industry meets the minimum jobs requirement of this subparagraph (i), the number of jobs the business or industry created in order to meet the minimum jobs requirement of paragraph (a) of this subsection (2) shall be subtracted from the minimum jobs requirement of this subparagraph (i);

(ii) The average annual wage of the jobs is at least one hundred fifty percent (150%) of the most recently published state average annual wage or the most recently published average annual wage of the county in which the qualified business or industry is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The criteria for the average annual wage requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of creation of the minimum number of jobs, and the threshold established at that time will remain constant for the duration of the additional period; and

(iii) The qualified business or industry meets and maintains the job and wage requirements of subparagraphs (i) and (ii) of this paragraph (b) for four (4) consecutive calendar quarters.

(3) In order to receive incentive payments, an establishment shall apply to the MDA. The application shall be on a form prescribed by the MDA and shall contain such information as may be required by the MDA to determine if the applicant is qualified.

(4)(a) In order to qualify to receive such payments, the establishment applying shall be required to meet the definition of the term "qualified business or industry ";

(b) The criteria for the average annual salary requirement shall be based upon the state average annual wage or the average annual wage of the county whichever is appropriate, at the time of application, and the threshold established upon application will remain constant for the duration of the project;

(c) Except as otherwise provided for a qualified business or industry as defined in Section 57-62-5(a)(iii), the business or industry must meet its job creation commitment within twenty-four (24) months of the application approval. However, if the qualified business or industry is applying for incentive payments for an additional period under subsection (2) of this section, the business or industry must comply with the applicable job and wage requirements of subsection (2) of this section.

(5)(a) The MDA shall determine if the applicant is qualified to receive incentive payments.

(b) If the applicant is determined to be qualified to receive incentive payments for an additional period under subsection (2) of this section, the MDA shall conduct an analysis to estimate the amount of gross payroll for the appropriate additional period. Incentive payments, cumulatively, shall not exceed ninety percent (90%) of the amount of actual income tax withheld for employees with new direct jobs, but in no event more than four percent (4%) of the total annual salary paid for new direct jobs during the additional period, excluding benefits which are not subject to Mississippi income taxes. Once the qualified business or industry is approved by the MDA, an agreement shall be deemed to exist between the qualified business or industry and the State of Mississippi, requiring the continued incentive payment to be made as long as the qualified business or industry retains its eligibility.

(6) Upon approval of such an application, the MDA shall notify the Department of Revenue and shall provide it with a copy of the approved application and the minimum job and salary requirements. The Department of Revenue may require the qualified business or industry to submit such additional information as may be necessary to administer the provisions of this chapter. The qualified business or industry shall report to the Department of Revenue periodically to show its continued eligibility for incentive payments. The qualified business or industry may be audited by the Department of Revenue to verify such eligibility. In addition, the State Auditor may conduct performance and compliance audits under this chapter according to Section 7-7-211(o) and may bill the oversight agency.

(7) If the qualified business or industry is located in an area that has been declared by the Governor to be a disaster area and as a result of the disaster the business or industry is unable to create or maintain the full-time jobs required by this section:

(a) The Commissioner of Revenue may extend the period of time that the business or industry may receive incentive payments for a period of time not to exceed two (2) years;

(b) The Commissioner of Revenue may waive the requirement that a certain number of jobs be maintained for a period of time not to exceed twenty-four (24) months; and

(c) The MDA may extend the period of time within which the jobs must be created for a period of time not to exceed twenty-four (24) months.

SOURCES: Laws of 2000, 2nd Ex Sess, ch. 1, § 28; Laws, 2000, 3rd Ex Sess, ch. 1, § 16; Laws, 2004, ch. 572, § 53; Laws, 2005, 3rd Ex Sess, ch. 1, § 70; Laws, 2007, ch. 475, § 1; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 53; Laws, 2010, ch. 533, § 33; Laws, 2010, ch. 559, § 53; Laws, 2011, ch. 471, § 54; Laws, 2011 1st Ex Sess, ch. 1, § 4; reenacted without change, Laws, 2012, ch. 515, § 53; Laws, 2014, ch. 427, § 3, eff from and after July 1, 2014.

Joint Legislative Committee Note — Section 53 of ch. 559, Laws of 2010, effective July 1, 2010 (approved May 12, 2010), amended this section. Section 33 of ch. 533, Laws of 2010, effective upon passage (approved April 16, 2010), also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee ratified the integration of these amendments as consistent with the legislative intent at its July 22, 2010, meeting.

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

"SECTION 60. This act shall stand repealed on July 1, 2019."

Amendment Notes — The 2014 amendment added the last sentence in (6) in all three versions of the section.

§ 57-62-11. Mississippi Advantage Jobs Incentive Payment Fund; creation; purpose; administration.

(1) There is created in the State Treasury a special fund to be known as the Mississippi Advantage Jobs Incentive Payment Fund, into which shall be deposited withholding tax revenue required to be deposited into such fund pursuant to Section 27-7-312. The money in the fund shall be used for the purpose of making the incentive payments authorized under this chapter.

(2) The Mississippi Advantage Jobs Incentive Payment Fund shall be administered by the Department of Revenue, and monies in the fund, less three percent (3%) to be retained by the Department of Revenue to pay the reasonable and necessary expenses of the Department of Revenue in admin-

istering its duties under this chapter, shall be expended pursuant to the approved application. Amounts in the fund at the end of any fiscal year that are not necessary to make future incentive payments shall be paid into the General Fund.

(3) The liability of the State of Mississippi to make the incentive payments authorized under this chapter shall be limited to the balance contained in the fund.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 29; Laws, 2010, ch. 533, § 34, eff from and after passage (approved Apr. 16, 2010.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

§ 57-62-13. Qualified business or industry to file claim for incentive payment; qualifications and requirements for receiving incentive payments.

(1) As soon as practicable after the end of a calendar quarter for which a qualified business or industry has qualified to receive an incentive payment, the qualified business or industry shall file a claim for the payment with the Department of Revenue and shall specify the actual number of new direct jobs created and maintained by the business or industry for the calendar quarter and the gross payroll thereof. The Department of Revenue shall verify the actual number of new direct jobs created and maintained by the business or industry and compliance with the average annual wage requirements for such business or industry under this chapter. If the qualified business or industry files a claim for an incentive payment during an additional incentive period provided under Section 57-62-9(2), the Department of Revenue shall verify the actual number of new direct jobs created and maintained by the business or industry and compliance with the average annual wage requirements for such business or industry under this chapter. If the Department of Revenue is not able to provide such verification utilizing all available resources, the Department of Revenue may request such additional information from the business or industry as may be necessary.

(2)(a) Except as otherwise provided in this chapter, the business or industry must meet the salary and job requirements of this chapter for four (4) consecutive calendar quarters prior to payment of the first incentive payment. Except as otherwise provided in Section 57-62-9, if the business or industry does not maintain the salary or job requirements of this chapter at any other time during the ten-year period after the date the first payment was made, the incentive payments shall not be made and shall not be resumed until such time as the actual verified number of new direct jobs created and maintained by the business or industry equals or exceeds the requirements of this chapter for one (1) calendar quarter.

(b) If the business or industry is qualified to receive incentive payments for an additional period provided under Section 57-62-9(2), the business or industry must meet the wage and job requirements of Section 57-62-9(2), for four (4) consecutive calendar quarters prior to payment of the first incentive payment. If the business or industry does not maintain the wage or job requirements of Section 57-62-9(2), at any other time during the appropriate additional period after the date the first payment was made, the incentive payments shall not be made and shall not be resumed until such time as the actual verified number of new direct jobs created and maintained by the business or industry equals or exceeds the amounts specified in Section 57-62-9(2), for one (1) calendar quarter.

(3) An establishment that has qualified pursuant to this chapter may receive payments only in accordance with the provision under which it initially applied and was approved. If an establishment that is receiving incentive payments expands, it may apply for additional incentive payments based on the new gross payroll for new direct jobs anticipated from the expansion only, pursuant to this chapter.

(4) As soon as practicable after verification of the qualified business or industry meeting the requirements of this chapter and all rules and regulations, the Department of Finance and Administration, upon requisition of the Department of Revenue, shall issue a warrant drawn on the Mississippi Advantage Jobs Incentive Payment Fund to the establishment in the amount of the incentive payment as determined pursuant to subsection (1) of this section for the calendar quarter.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 30; Laws, 2000, 3rd Ex Sess, ch. 1, § 17; Laws, 2005, 3rd Ex Sess, ch. 1, § 71; Laws, 2007, ch. 475, § 2; Laws, 2010, ch. 533, § 35; Laws, 2011 1st Ex Sess, ch. 1, § 5, eff from and after passage (approved September 7, 2011.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'. "

Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

§ 57-62-15. Promulgation of rules and regulations.

The MDA and the Department of Revenue shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, and all application forms and other forms necessary to implement their respective duties and responsibilities under the provisions of this chapter.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 31; Laws, 2010, ch. 533, § 36, eff from and after passage (approved Apr. 16, 2010.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

§ 57-62-17. Annual report.

The MDA shall prepare a report on the program pursuant to Section 57-1-12.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 32, eff from and after passage (approved Aug. 30, 2000.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

CHAPTER 63

Statewide Economic Development and Planning Act

Sec.
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§ 57-63-1. Short title.

This chapter may be cited as the "Statewide Economic Development and Planning Act of 1987."

SOURCES: Laws, 1987, ch. 484, § 1, eff from and after passage (approved April 15, 1987).

§ 57-63-3. Legislative findings and declarations.

(1) The Legislature finds that the prospective well-being of the people of the State of Mississippi requires that the economic development of the state should be strategically, comprehensively and exhaustively planned and that the plan be reviewed and continuously updated and systematically implemented. The Legislature further finds that the state should foster open communication between government and the private sectors of our economy and that the state should provide a policy, a vision and a framework to encourage an environment conducive to entrepreneurship and rapid development in the State of Mississippi.

(2) The Legislature hereby declares that the public policy of this state requires an overall, comprehensive and coordinated plan for maximum and accelerated economic development of the state. It is the express intent of the

Legislature that such plan be developed and maintained with annual revisions as required.

(3) There is hereby established within the University Research Center a Bureau for Comprehensive Long Range Economic Development Planning. The bureau shall be responsible for preparing and maintaining with appropriate annual updates a long range plan for the economic development of the state. The plan shall be sufficiently broad in scope so as to address all state, national and international economic, finance and demographic, natural resource and infrastructure factors relating to the overall status and economic development of the state.

SOURCES: Laws, 1987, ch. 484, § 2; Laws, 1988, ch. 518, § 73, eff from and after July 1, 1988.

Cross References — University Research Center, see §§ 37-141-1 et seq.

University Research Bureau of Comprehensive Long-Range Economic Development Planning to serve the Special Task Force for Revitalization of the Mississippi Delta Region, see § 57-9-7.

§§ 57-63-5 and 57-63-7. Repealed.

Repealed by Laws, 1988, ch. 518, § 95, eff from and after July 1, 1988.

§ 57-63-5. [Laws, 1987, ch. 484, § 3]

§ 57-63-7. [Laws, 1987, ch. 484, § 4]

Editor's Note — Former § 57-63-5 specified powers of the board of economic development.

Former § 57-63-7 required the matching of funds to be expended, and that the board of economic development act to secure funding for the special development task force.

§ 57-63-9. Status reports from Bureau of Economic Development Planning.

In an effort to facilitate continuing and future legislative support for long range economic development planning, the Bureau for Economic Development Planning shall present status reports on its work, as it relates to the purpose and requirements of this chapter, to the Joint Legislative Budget Committee, thereby having an opportunity to interact with legislative leaders and maintain and foster communication and cooperation between all parties. The Director of the Joint Legislative Budget Committee shall coordinate the scheduling of said reports and may specify selected topics for presentation to the Joint Legislative Budget Committee. Such reports shall begin with the month of July 1987; and there shall be a minimum of three (3) reports to the committee in each fiscal year. The Director of the Joint Legislative Budget Committee may require such reports to be made orally and/or in writing to regular meetings of the Joint Legislative Budget Committee.

SOURCES: Laws, 1987, ch. 484, § 5; Laws, 1988, ch. 518, § 74, eff from and after July 1, 1988.

Cross References — Presentation of reports to the Legislature, see § 57-63-33.

§ 57-63-11. Special task force for economic development planning created; composition; appointment of members; organization.

(1) The Special Task Force for Economic Development Planning, to consist of not more than twenty-three (23) members, is hereby created. The task force shall be composed of:

(a) One (1) member from the state's public universities and one (1) member from the state's junior colleges. These members shall be selected by the Governor.

(b) One (1) member from the membership or staffs of each of the following organizations: Mississippi Association of Supervisors, Mississippi Municipal Association, Mississippi Association of Planning and Development Districts, and the Mississippi Industrial Development Council. These members will be appointed to the task force by the Governor from recommendations made to the board by the respective organizations.

(c) The President of the Mississippi Economic Council.

(d) The State Superintendent of Education.

(e) The State Treasurer.

(f) The Executive Officer of the State Board of Health.

(g) The Director of the State Highway Department.

(h) The Governor's Special Assistant for Economic Development.

(i) The Executive Director of the Department of Economic Development or his designee.

(j) Two (2) members from federal agencies to be appointed by the Governor.

(k) Eight (8) members to be selected by the Governor as follows: Six (6) members shall be representatives of business and/or professional enterprises in Mississippi; two (2) of the eight (8) members may be representative of business or professional enterprises residing outside Mississippi and may include foreign nationals.

(2) It is the intent of the Legislature that the task force will be organized, selected and constituted in such a way that it represents the most talented individuals that could possibly be assembled to address the economic development concerns and issues of this state. Task Force members shall be appointed by July 1, 1987, and the Task Force shall have its organizational meeting no later than August 1, 1987. The Governor shall designate from the task force membership a task force chairman. Terms of service of task force members shall coincide with the remaining term of the Governor who makes the appointment.

SOURCES: Laws, 1987, ch. 484, § 6; Laws, 1988, ch. 518, § 75, eff from and after passage (approved May 16, 1988).

Editor's Note — Section 57-1-2 provides that executive director of the Mississippi Department of Economic Development shall mean the executive officer of the Mississippi Department of Economic and Community Development.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Section 65-1-1 provides that whenever the term "Mississippi State Highway Department," or the term "department" meaning the Mississippi State Highway Department, appears in the laws of this state, it shall mean the Mississippi Department of Transportation.

§ 57-63-13. Qualifications of members of task force; vacancies; support staff; coordination and organization of work.

All persons selected for service on the task force shall be creative, knowledgeable and accomplished people with the capacity to contribute to the mission of the task force. Task force members shall be selected by the Governor without regard for race, age or sex. Vacancies on the task force shall be filled by the Governor in a manner consistent with original appointments.

The University Research Center through the Bureau for Comprehensive Long Range Economic Development Planning shall provide staff support, including the task force coordinator, to the task force and shall organize and coordinate the work of the task force and may designate subgroups of task force members to assigned or selected areas of interest.

SOURCES: Laws, 1987, ch. 484, § 7; Laws, 1988, ch. 518, § 76, eff from and after passage (approved May 16, 1988).

Cross References — University Research Center, see §§ 37-141-1 et seq.

§ 57-63-15. Task force office.

The Governor's Office of General Services shall make available office space for the special task force to include conference room facilities.

SOURCES: Laws, 1987, ch. 484, § 8, eff from and after passage (approved April 15, 1987).

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

§ 57-63-17. Mission and role of task force; budget.

(1) The mission and role of the special task force shall be to function as an independent research and analytical group charged with assisting the University Research Center in setting measurable, achievable and significant state economic development goals. The task force shall make recommendations

regarding such goals and present findings and detailed recommendations which will enable the state to achieve the stated goals. Recommendations of the task force shall be specific to the extent that actions needed are explicitly set out and supported with in-depth analyses as to the contributions such actions would have on the total development of the state. All such recommendations shall be accompanied by specific recommendations with respect to allocation of resources, including any additional funding necessary to fund all economic development activities.

(2) The task force may adopt a budget for its operations and, subject to approval of such budget by the University Research Center, the center may contract with the task force to defray expenses of the task force.

SOURCES: Laws, 1987, ch. 484, § 9; Laws, 1988, ch. 518, § 77, eff from and after passage (approved May 16, 1988).

Cross References — University Research Center, see §§ 37-141-1 et seq.

§ 57-63-19. State economic development action plan (SDAP); preparation.

With research and recommendations prepared by the task force, the Bureau of Comprehensive Long Range Economic Development Planning of the University Research Center shall prepare a long range state economic development action plan which shall consist of six (6) parts as provided in Sections 57-63-21 through 57-63-31 and which shall be revised and updated annually by the bureau.

SOURCES: Laws, 1987, ch. 484, § 10; Laws, 1988, ch. 518, § 78, eff from and after July 1, 1988.

Editor's Note — Section 57-63-31, referred to in this section, was repealed by Laws of 1988, ch. 518, § 95, effective July 1, 1988.

Cross References — University Research Center, see §§ 37-141-1 et seq.

§ 57-63-21. Contents of SDAP; Part I.

Part I of the economic development plan will identify specific, quantifiable state economic development goals to be accomplished in the next succeeding five (5), ten (10) and twenty (20) year periods. Prior to adopting the goals required for Part I of the plan, one (1) public hearing shall be held in each Planning and Development District (PDD) in coordination with the Director of each PDD and the Department of Economic Development to receive public input on the goal setting process and deliberations pertaining thereto.

The goals adopted by the Bureau of Long Range Planning shall be reasonable, challenging, achievable and shall be expressed in measures of economic and educational achievement that would represent measurable, comparative and significant economic progress for the state.

SOURCES: Laws, 1987, ch. 484, § 11; Laws, 1988, ch. 518, § 79, eff from and after July 1, 1988.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — University Research Center, see §§ 37-141-1 et seq.

Responsibility of the University Research Center to prepare a long range state economic development action plan, see § 57-63-19.

§ 57-63-23. Contents of SDAP; Part II.

Part II of the economic development plan shall include:

(a) An inventory and analysis of the state's competitive advantages and an inventory and analysis of factors which tend to retard economic development in Mississippi;

(b) Identification and analysis of state, national and international economic trends affecting Mississippi's economic development;

(c) An analysis and evaluation of the state's taxing effort as it affects the state's economic development efforts and an analysis of how economic development goals and objectives relate to projected short and long-term state and local revenues and to the possible and potential impact on the revenue structure;

(d) An identification and analysis of key factors affecting economic development in the state;

(e) An identification and analysis of factors affecting industrial location and decisions affecting expansion of existing business and industry within the state;

(f) An analysis of the state's incentive programs and economic development strategies and a comparison with other states;

(g) An analysis of the state's work force and of the economic conditions that work force will face in future years;

(h) An analysis of and assessment of the minority business and commercial activity, capability, potential and needs in the state;

(i) An analysis of and assessment of the state income by various income groups to provide the analytical base for developing programs and recommendations to address low income high unemployment problems in the state as required by Section 57-63-27;

(j) An analysis and assessment of programs in other states and in the federal government which seek to foster, encourage and assist minority involvement in and contributions toward state economic development. The programs to be assessed shall include but not be limited to set aside procurement programs.

SOURCES: Laws, 1987, ch. 484, § 12; Laws, 1988, ch. 518, § 80, eff from and after July 1, 1988.

Cross References — Responsibility of the University Research Center to prepare a long range state economic development action plan, see § 57-63-19.

Requirement to analyze and evaluate the materials in this Part and Part III of the plan, see § 57-63-27.

§ 57-63-25. Contents of SDAP; Part III.

Part III of the economic development plan shall provide a procedure for monitoring the implementation of the state's economic development efforts. In formulating this procedure, the University Research Center will survey, identify and analyze every government program and private resource and activity that is available to, that is being applied toward, or that contributes to the accomplishment of the goals set in the long range plan. The resources and economic development activities (programs) of state government, local government, federal government and private business shall be identified and analyzed to determine the specific areas in which they contribute to achievement of the overall goals.

The planning and development districts shall be utilized fully in determining the goals established herein and shall be the primary source of information and evaluation as to local and regional economic priorities as well as the identification and reporting of local governments and local and regional private business resources available for the accomplishment of such goals.

Each agency and institution of state government involved in economic development, including the Institute for Technology Development and the state universities and junior colleges, is hereby directed to prepare and submit to the Department of Economic Development, the University Research Center and the Legislative Budget Committee work programs covering their economic development activities. The University Research Center shall specify a uniform format for agencies to follow in preparing their work programs. These work programs shall cover in general the next five (5) years of the plan and, in significant detail, the upcoming fiscal year. With each annual work program for the upcoming fiscal year, each agency shall make a full report on accomplishments of its previous year's work program. Work programs shall be submitted by August 15, 1987, for fiscal year 1988 by those agencies identified by the Department of Economic Development as being required to submit work programs in accordance with this chapter. Work programs submitted August 15, 1987, shall report on accomplishments of the prior fiscal year's work in economic development activities. The work program for fiscal year 1989, and for succeeding years, shall be submitted on June 1 prior to the beginning of the ensuing fiscal year. The state long range plan shall require copies of the overall economic development plans from each of the ten (10) planning and development districts to be submitted annually to the University Research Center along with annual work programs and details of accomplishments of the prior fiscal year's work program. These materials shall be incorporated by reference in Part III of the plan.

SOURCES: Laws, 1987, ch. 484, § 13; Laws, 1988, ch. 518, § 81, eff from and after July 1, 1988.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — University Research Center, see §§ 37-141-1 et seq.

Responsibility of the University Research Center to prepare a long range state economic development action plan, see § 57-63-19.

Requirement to analyze and evaluate the materials in this Part and Part II of the plan, see § 57-63-27.

§ 57-63-27. Contents of SDAP; Part IV.

Part IV of the economic development plan shall be an analysis and evaluation of materials in Parts II and III of the plan. This phase of the plan shall also make an overall evaluation of the relative contributions that the resources and efforts identified in Part III are making toward achievement of the overall state economic development goals. This phase of the plan shall contain specific recommendations for inclusion in the state's overall economic development efforts (among other things) (a) specific programs for accelerating overall economic development through greater results from the state's agricultural resources; (b) specific programs for rural areas of the state and those areas and identifiable groups of people with the highest unemployment and lowest per capita incomes; (c) specific programs for international trade and the attraction of foreign investment through development of specialized, university-based or other programs; (d) the specific niches that Mississippi has and on which it should focus development efforts and/or those niches the state should seek to develop; (e) the scope and role of each university and junior college with respect to economic development efforts of each institution; and (f) specific minority enterprise assistance and development programs that would be needed and recommended as a result of the analyses required by Section 57-63-23.

This phase of the plan shall also evaluate the organization and structure of state economic development agencies and the assignment of functions and responsibilities for economic development among state agencies and institutions.

SOURCES: Laws, 1987, ch. 484, § 14; Laws, 1988, ch. 518, § 82, eff from and after July 1, 1988.

Cross References — Responsibility of the University Research Center to prepare a long range state economic development action plan, see § 57-63-19.

Analysis required prior to addressing the problems of low income and high unemployment, see § 57-63-23.

This part to form the basis for the recommendations required by Part V of the plan, see § 57-63-29.

§ 57-63-29. Contents of SDAP; Part V.

(1) Part V of the economic development plan shall consist of recommendations. Such recommendations shall be based on Part IV of the plan and shall seek to improve in every possible and feasible manner the coordination and implementation of all activities and programs to be outlined and identified as required in Part III of the plan.

(2) The plan shall make recommendations regarding new initiatives and new programs and the alteration or expansion of existing programs as deemed necessary to achieve the goals established. Such recommendations shall state specifically what is to be done, who is to do it and how it is to be done and shall also set out the cost-benefits of each recommendation.

(3) The University Research Center, in consultation with the task force and the Department of Economic Development shall develop a legislative package containing statutory actions required to implement the programs and recommendations necessary to achieve the goals established in the state long range plan for economic development. The legislative package shall be prepared and presented in bill format.

SOURCES: Laws, 1987, ch. 484, § 15; Laws, 1988, ch. 518, § 83, eff from and after July 1, 1988.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — University Research Center, see §§ 37-141-1 et seq.

Responsibility of the University Research Center to prepare a long range state economic development action plan, see § 57-63-19.

§ 57-63-31. Repealed.

Repealed by Laws, 1988, ch. 518, § 95, eff from and after July 1, 1988.
[Laws, 1987, ch. 484, § 16]

Editor's Note — Former § 57-63-31 provided for a part VI of the SDAP, requiring the research and development center to develop legislative proposals.

§ 57-63-33. Annual revisions of SDAP; presentation to Legislature.

The University Research Center shall present the annual revisions of the plan to the Joint Legislative Budget Committee prior to the annual budget hearings and discuss with the joint committee Parts III, IV and V. The presentation shall review the established goals and report and assess progress for the current reporting period of achieving official goals and make recommendations for any program changes that might be needed. Additional reports shall be made to the Joint Legislative Budget Committee as requested and as required by Section 57-63-9. Copies of the plan shall also be presented to the Department of Economic Development, the planning and development districts, and other appropriate agencies and organizations.

SOURCES: Laws, 1987, ch. 484, § 17; Laws, 1988, ch. 518, § 84, eff from and after July 1, 1988.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — University Research Center, see §§ 37-141-1 et seq.

§ 57-63-35. Annual request for summary of development efforts of local governments.

The University Research Center shall annually request of the Mississippi Municipal Association and the Mississippi Association of Supervisors a summary of development efforts of local governments that relate to the overall state plan and which contribute to the accomplishment of the goals set by the plan.

SOURCES: Laws, 1987, ch. 484, § 18; Laws, 1988, ch. 518, § 85, eff from and after July 1, 1988.

Cross References — University Research Center, see §§ 37-141-1 et seq.

§ 57-63-37. Completion date for first annual SDAP; date for presentation of SDAP to Legislature; dates for presentation of preliminary reports to Legislature.

The first annual economic development plan shall be completed no later than December 1, 1988. The Department of Economic Development with assistance of the University Research Center shall present the first annual plan to the Governor, the joint Legislative Budget Committee and to the Legislature by January 1989. A preliminary report on the status of the plan shall be made to the Joint Legislative Budget Committee in November 1987 and in July 1988.

SOURCES: Laws, 1987, ch. 484, § 19; Laws, 1988, ch. 518, § 86, eff from and after July 1, 1988.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — University Research Center, see §§ 37-141-1 et seq.

CHAPTER 64

Regional Economic Development

Sec.
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§ 57-64-1. Short title.

This chapter may be cited as the "Regional Economic Development Act."

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 5, eff from and after passage (approved Aug. 30, 2000.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides: "SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'. "

ATTORNEY GENERAL OPINIONS

Counties or municipalities which are members of a Regional Economic Development Alliance approved by the Mississippi Development Authority have the authority under the Regional Economic Development Act to use bond proceeds to reimburse private developers for the costs of acquiring and constructing improvements. Harris, Apr. 26, 2006, A.G. Op. 06-0012.

Before the Mississippi Development Authority issues a certificate of public convenience and necessity for any project under the Regional Economic Development Act, Miss. Code Ann. § 57-64-1 et seq., it has an affirmative duty to determine whether the project will have positive, substantial, and multi-jurisdictional economic development benefits, and whether a regional economic development alliance is necessary to provide a particular "form of governmental organization" to facilitate the project. Merely local economic development benefits are not sufficient. Irvin, February 2, 2007, A.G. Op. #06-00615, 2007 Miss. AG LEXIS 5.

§ 57-64-3. Declaration of public policy.

It is hereby declared that the state's public welfare demands, and the state's public policy requires:

(a) That for the benefit of the people of the State of Mississippi, it is essential to foster and promote the issuing of bonds by cities and counties acting jointly or severally, including any joint bond issuance with a county, parish or other foreign political subdivision in another state.

(b) That the bonds to be issued pursuant to this chapter shall be of any type permissible to be issued by any city or county without limitation.

(c) That the purposes of the bonds issued under this chapter are for acquiring land and/or acquiring or constructing buildings, fixtures, machinery, equipment, infrastructure, utilities, port or airport facilities, roads, railroad spurs and other related projects that have or will provide a multi-jurisdictional benefit.

(d) That the projects contemplated under this chapter are to provide economic development benefits, including but not limited to, industry, distribution, commerce, tourism, healthcare and other purposes in which the public purpose and interest of the people of the state is served.

(e) That costs and revenues connected with a project should both be shared by the members of the alliance created pursuant to this chapter.

(f) That the authority granted under this chapter and the purposes to be accomplished hereby are proper governmental and public purposes and that the resulting economic benefits to the state are of paramount importance, mandating that the provisions of this chapter be liberally construed and applied in order to advance the public purposes.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 6, eff from and after passage (approved Aug. 30, 2000.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:
"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'. "

ATTORNEY GENERAL OPINIONS

Before the Mississippi Development Authority issues a certificate of public convenience and necessity for any project under the Regional Economic Development Act, Miss. Code Ann. § 57-64-1 et seq., it has an affirmative duty to determine whether the project will have positive, substantial, and multi-jurisdictional economic development benefits, and whether a regional economic development alliance is necessary to provide a particular "form of governmental organization" to facilitate the project. Merely local economic development benefits are not sufficient. Irvin, February 2, 2007, A.G. Op. #06-00615, 2007 Miss. AG LEXIS 5.

§ 57-64-5. Purpose.

It is the purpose of this chapter to permit local government units of the state to make the most efficient use of their powers and resources by enabling them to cooperate and to contract with other local government units, including foreign governmental units from another state, on a basis of mutual advantage, to share the costs of and revenues derived from a project, and to pledge revenue from a project to secure payment of the bonds issued for the project, and thereby provide services and facilities in a manner pursuant to forms of governmental organization that will accord best with geographic, economic, population and other factors influencing the needs and economic development of the local government units.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 7, eff from and after passage (approved Aug. 30, 2000.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:
"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'. "

ATTORNEY GENERAL OPINIONS

A county's conventional authority over its public roads does not include the authority to do road work in another state on a road which lies partially in the State of Mississippi; however, the county may wish to explore the use of a Regional Economic Alliance to pursue the project. Chamberlin, Jan. 29, 2004, A.G. Op. 03-0643.

Before the Mississippi Development Authority issues a certificate of public convenience and necessity for any project under the Regional Economic Development Act, Miss. Code Ann. § 57-64-1 et seq., it has an affirmative duty to determine whether the project will have positive, substantial, and multi-jurisdictional economic development benefits, and whether a regional economic development alliance is necessary to provide a particular "form of governmental organization" to facilitate the project. Merely local economic development benefits are not sufficient. Irvin, February 2, 2007, A.G. Op. #06-00615, 2007 Miss. AG LEXIS 5.

§ 57-64-7. Definitions.

For the purposes of this chapter, the following words shall be defined as herein provided unless the context requires otherwise:

(a) "Alliance" means a regional economic development alliance created under this chapter.

(b) "Bond" or "bonds" means bonds, notes or other evidence of indebtedness of the local government unit issued pursuant to this chapter.

(c) "Cost of project" means all costs of site preparation and other start-up costs; all costs of construction; all costs of fixtures and of real and personal property required for the purposes of the project and facilities related thereto, whether publicly or privately owned, including land and any rights or undivided interest therein, easements, franchises, fees, permits, approvals, licenses, and certificates and the securing of such permits, approvals, licenses, and certificates and all machinery and equipment, including motor vehicles which are used for project functions; and including any cost associated with the closure, post-closure maintenance or corrective action on environmental matters, financing charges and interest prior to and during construction and during such additional period as the alliance may reasonably determine to be necessary for the placing of the project in operation; costs of engineering, surveying, environmental geotechnical, architectural and legal services; costs of plans and specifications and all expenses necessary or incident to determining the feasibility or practicability of the project; administrative expenses; and such other expenses as may be necessary or incidental to the financing authorized in this chapter. The costs of any project may also include funds for the creation of a debt service reserve, a renewal and replacement reserve, bond insurance and credit enhancement, and such other reserves as may be reasonably required by the alliance for the operation of its projects and as may be authorized by any bond resolution or trust agreement or indenture pursuant to the provisions of which the issuance of any such bonds may be authorized. Any obligation or expense incurred for any of the foregoing purposes shall be regarded as a part of the costs of the project and may be paid or reimbursed as such out of the proceeds of user fees, of revenue bonds or notes issued under this chapter for such project, or from other revenues obtained by the alliance.

(d) "County" means any county of this state.

(e) "Foreign governmental unit" means any county, parish, city, town, village, utility district, school district, any community college, any institution of higher learning, any municipal airport authority, regional airport authority, port authority or any other political subdivision of another state.

(f) "Governing body" means the board of supervisors of any county or the governing board of any city, town or village. As to the state, the term governing body means the State Bond Commission.

(g) "Holder of bonds" or "bondholder" or any similar term means any person who shall be the registered owner of any such bond or bonds which shall at the time be registered.

(h) "Law" means any act or statute, general, special or local, of this state.

(i) "Local government unit" means any county or incorporated city, town or village in the state acting jointly or severally.

(j) "MDA" means the Mississippi Development Authority.

(k) "Municipality" means any incorporated municipality in the state.

(*l*) "Person" means a natural person, partnership, association, corporation, business trust or other business entity.

(m) "Project" means and includes any of the following which promotes economic development or which assists in the creation of jobs, whether publicly or privately owned:

(i) Acquisition, construction, repair, renovation, demolition or removal of:

1. Buildings and site improvements (including fixtures);
2. Potable and nonpotable water supply systems;
3. Sewage and waste disposal systems;

4. Storm water drainage and other drainage systems;
5. Airport facilities;
6. Rail lines and rail spurs;
7. Port facilities;
8. Highways, streets and other roadways;
9. Fire suppression and prevention systems;
10. Utility distribution systems, including, but not limited to, water, electricity, natural gas, telephone and other information and telecommunications facilities, whether by wire, fiber or wireless means; provided, however, that electrical, natural gas, telephone and telecommunication systems shall be constructed, repaired or renovated only for the purpose of completing the project and connecting to existing utility systems (this provision shall not be construed to prevent a city, county or natural gas district from supplying utility service that it is authorized to supply in the service area that it is authorized to serve);
11. Business, industrial and technology parks and the acquisition of land and acquisition or construction of improvements to land connected with any of the preceding purposes;

(ii) County purposes authorized by or defined in Sections 17-5-3 and 19-9-1, (except Section 19-9-1(f));

(iii) Municipal purposes authorized by or defined in Sections 17-5-3, 17-17-301 et seq., 21-27-23, 21-33-301;

(iv) Refunding of bonds as authorized in Section 21-27-1 et seq.; and

(v) A project as defined in Section 57-75-5(f) (i) or a facility related to the project as defined in Section 57-75-5(d), or both.

(n) "Resolution" means a resolution, ordinance, act, record of minutes or other appropriate enactment of a governing body.

(o) "Revenues" mean any and all taxes, fees, rates, rentals, profits and receipts collected by, payable to, or otherwise derived by, the local government units and foreign governmental units, and all other monies and income of whatsoever kind or character collected by, payable to, or otherwise derived by, the local government unit and foreign governmental units in connection with the economic development projects provided through this chapter.

(p) "Security" means a bond, note or other evidence of indebtedness issued by a local government unit pursuant to the provisions of this chapter.

(q) "State" means the State of Mississippi.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 8; Laws, 2006, ch. 538, § 17, eff from and after passage (approved Apr. 14, 2006.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:
"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'. "
Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.
Mississippi Development Authority generally, see §§ 57-1-1 et seq.

§ 57-64-9. Certificate of public convenience and necessity.

(1) Prior to issuing bonds to finance any proposed project under this chapter, the local government unit shall submit an application to the MDA for a certificate of public convenience and necessity. The application shall be in such form and content as the MDA shall from time to time prescribe.

(2) The MDA shall investigate, find and determine, upon application of any local government unit therefor, as to whether a certificate of public convenience and necessity shall be issued to such local government unit to authorize creation of an alliance. The MDA is authorized and empowered, having due regard to the promotion of the public policy and the general welfare herein declared, to issue or refuse to issue a certificate of public convenience and necessity for the alliance to the local government unit. The MDA shall issue or refuse to issue the certificate of public convenience and necessity within six (6) months after it receives such application. If and when such certificate is issued, it shall authorize the particular local government unit to create and operate the alliance but, except as otherwise provided in subsection (4) of this section, the certificate shall expire twelve (12) months from its date unless within that time such alliance shall have been created. Any application rejected may be resubmitted.

(3) If and when a certificate is issued, the MDA therein shall fix and determine:

(a) The extent and amount to which the local government unit may issue bonds or make expenditures for such alliance;

(b) The extent and amount that the revenues derived from the project shall be shared by the local government unit with other members of the alliance;

(c) The extent and amount that the revenues derived from the project may be pledged to secure payment of the bonds issued to finance the project;

(d) What property may be acquired therefor;

(e) The terms upon which such acquisition may be had;

(f) What expenditures may be made; and

(g) The construction of buildings and of equipment with its installation.

If the governing body of the local government unit fails or refuses to follow the requirements made by the MDA in the certificate, then the members of the governing body of the local government unit voting for such failure or refusal shall be individually and personally liable until they have been out of office for one (1) year, and liable upon their official bonds for any loss that the local government unit may sustain by reason of such failure or refusal to follow the requirements, and in addition may be compelled by injunction to comply with such requirements.

(4)(a) As an alternative to the procedure provided in subsection (1) of this section, local governmental units desiring to create an alliance may initially apply to the MDA for the creation of an alliance without identifying or providing details about a specific project for which the local governmental units desire to create an alliance. Upon receipt of such an application, the

MDA shall review the application and determine whether it is appropriate for the issuance of an initial certificate of public convenience and necessity to the local government units authorizing the creation of an alliance. If the MDA determines the application for the creation of an alliance is appropriate, the MDA shall issue an initial certificate of public convenience and necessity authorizing the creation of an alliance and authorizing the expenditure of funds by the alliance. An alliance created under this subsection (4) may make a subsequent application to the MDA identifying and providing details about a specific project or projects along with the methods of financing or amounts required for each project as provided under subsection (3) of this section. Upon receipt of such an application, the MDA shall review the application and determine whether it is appropriate for the issuance of a subsequent certificate of public convenience and necessity. If the MDA determines the application for a subsequent certificate of public convenience and necessity is appropriate, the MDA shall issue a subsequent certificate of public convenience and necessity authorizing and approving the project including the items provided in subsection (3) of this section.

(b) A certificate of public convenience and necessity issued under this subsection (4) shall not expire until the local governmental units comprising the alliance terminate and dissolve the alliance.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 9; Laws, 2003, ch. 445, § 1, eff from and after passage (approved Mar. 18, 2003.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

ATTORNEY GENERAL OPINIONS

A regional alliance cannot be formed prior to having a specific project as its goal, along with determining the financing mechanisms and amounts required for the project. Rohrlack, Jr., May 24, 2002, A.G. Op. #02-0275.

When a certificate of convenience and necessity is issued, the Mississippi Development Authority must establish in that certificate those items listed in subsection (3). Rohrlack, Jr., May 24, 2002, A.G. Op. #02-0275.

A new certificate of convenience and necessity must be issued for each project; however, once an alliance is formed, it is not necessary to form a new alliance for each subsequent project. Rohrlack, Jr., May 24, 2002, A.G. Op. #02-0275.

Before the Mississippi Development Authority issues a certificate of public convenience and necessity for any project under the Regional Economic Development Act, Miss. Code Ann. § 57-64-1 et seq., it has an affirmative duty to determine whether the project will have positive, substantial, and multi-jurisdictional economic development benefits, and whether a regional economic development alliance is necessary to provide a particular "form of governmental organization" to facilitate the project. Merely local economic development benefits are not sufficient. Irvin, February 2, 2007, A.G. Op. #06-00615, 2007 Miss. AG LEXIS 5.

§ 57-64-11. Issuance of bonds.

(1) After receiving a certificate of public convenience and necessity from the MDA, the local government unit is empowered and authorized, from time to time, to issue bonds up to the maximum principal amount authorized in the certificate.

(2) After receiving a certificate of public convenience and necessity from the MDA, the governing body of any local government unit entering into an agreement pursuant to this chapter may incur bonded and floating indebtedness by issuing general obligation bonds as authorized by Sections 19-9-1 through 19-9-31 and Sections 21-33-301 through 21-33-329, or by issuing bonds pursuant to the Tax Increment Financing Act as authorized by Sections 21-45-3 through 21-45-21, by issuing revenue bonds as authorized by any statute authorizing the issuance of revenue bonds, or by issuing special assessment bonds as authorized by Sections 21-41-1 through 21-41-47 and may appropriate funds for the purposes and in the manner prescribed by law without regard to whether the activities and improvements authorized by this chapter to be financed by such debt or appropriation are within or without the boundaries of the local government unit. Revenues derived from any project financed with bonds issued pursuant to this chapter may be pledged in whole or in part to secure payment of the bonded indebtedness incurred to finance the project. Such governing body may sell, lease, grant or otherwise supply goods and services to any other local government unit which is a party to the agreement or the administrative body or legal entity created to operate the joint or cooperative undertaking.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 10, eff from and after passage (approved Aug. 30, 2000.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

§ 57-64-13. Joint exercise of power and authority by local governments.

(1) Any power, authority or responsibility exercised or capable of being exercised by a local government unit of this state may be exercised and carried out jointly with any other local government unit of this state or with a foreign governmental unit of another state, any state board, agency or commission and any public agency of the United States, to the extent that the laws of the United States permit such joint exercise or enjoyment.

(2) No such power, authority and responsibility may be exercised under the provisions of this chapter which will have the effect of abolishing any office which is held by a person elected by the citizenry.

(3) No agreement made under this chapter shall be entered into by any local government unit without the approval by resolution on the minutes of the governing body of that local government unit.

(4) Any joint undertaking entered into under this chapter shall be evidenced by written contractual agreements for joint or cooperative action to provide services and facilities pursuant to the provisions of this chapter which agreements shall be approved by the MDA. Appropriate action by ordinance, resolution or otherwise pursuant to the law controlling the participating local government units or agencies shall be necessary before any such agreement shall be in force.

(5) An alliance created pursuant to this chapter may take any action with respect to a project that any local government unit member may take. If one (1) member of the alliance shall have authority to undertake a particular project or pursue a particular action with respect to such project, then the alliance shall have identical authority so to do. No local government unit shall be precluded from joining an alliance, and it shall not be the basis for denying an application for a certificate of convenience and necessity by the MDA, solely because the alliance may have power to take actions that the local government unit acting alone could not take.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 11, eff from and after passage (approved Aug. 30, 2000.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:
"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

ATTORNEY GENERAL OPINIONS

A new certificate of convenience and necessity must be issued for each project; however, once an alliance is formed, it is not necessary to form a new alliance for each subsequent project. Rohrlack, Jr., May 24, 2002, A.G. Op. #02-0275.

Before the Mississippi Development Authority issues a certificate of public convenience and necessity for any project under the Regional Economic Development Act, Miss. Code Ann. § 57-64-1 et seq., it has an affirmative duty to determine whether the project will have positive, substantial, and multi-jurisdictional economic development benefits, and whether a regional economic development alliance is necessary to provide a particular "form of governmental organization" to facilitate the project. Merely local economic development benefits are not sufficient. Irvin, February 2, 2007, A.G. Op. #06-00615, 2007 Miss. AG LEXIS 5.

§ 57-64-15. Powers with regard to issuance of bonds.

(1) The local government unit shall be the issuer of any debt incurred hereunder and the proceeds of such debt shall be made available to the alliance in order to provide funds to defray the costs of a project.

(2) The local government unit shall have power in the issuance of its bonds to:

(a) Covenant as to the use of any or all of its property, real or personal.

(b) Redeem the bonds, to covenant for their redemption and to provide the terms and conditions thereof.

(c) Covenant to charge rates, fees and charges sufficient to meet operating and maintenance expenses, renewals and replacements, principal and debt service on bonds, creation and maintenance of any reserves required by a bond resolution, trust indenture or other security instrument and to provide for any margins or coverages over and above debt service on the bonds deemed desirable for the marketability of the bonds.

(d) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity, as to the terms and conditions upon which such declaration and its consequences may be waived and as to the consequences of default and the remedies of bondholders.

(e) Covenant as to the mortgage or pledge of or the grant of a security interest in any real or personal property and all or any part of the revenues from any facilities or any revenue-producing contract or contracts made by the compact with any person to secure the payment of bonds, subject to such agreements with the holders of bonds as may then exist.

(f) Covenant as to the custody, collection, securing, investment and payment of any revenue assets, monies, funds or property with respect to which the compact may have any rights or interest.

(g) Covenant as to the purpose to which the proceeds from the sale of any bonds then or thereafter to be issued may be applied, and the pledge of such proceeds to secure the payment of the bonds.

(h) Covenant as to the limitations on the issuance of any additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.

(i) Covenant as to the rank or priority of any bonds with respect to any lien or security.

(j) Covenant as to the procedure by which the terms of any contract with or for the benefit of the holders of bonds may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given.

(k) Covenant as to the custody of any of its properties or investments, the safekeeping thereof, the insurance to be carried thereon, and the use and disposition of insurance proceeds.

(*l*) Covenant as to the vesting in a trustee or trustees, within or outside the state, of such properties, rights, powers and duties in trust as the local government unit may determine.

(m) Covenant as to the appointing and providing for the duties and obligations of a paying agent or paying agents or other fiduciaries within or outside the state.

(n) Make all other covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, including providing a debt service reserve fund, bond insurance and credit enhancement, or in the absolute discretion of the local government unit make the bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein; it being the intention hereof to give the local government unit power to do all things in the issuance of bonds and in the provisions for security thereof which are not inconsistent with the Mississippi Constitution of 1890.

(o) Execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of covenants or duties, which may contain such covenants and provisions, as any purchaser of the bonds of the local government unit may reasonably require.

(3) Before the local government unit may issue any bonds to finance any debt relating to a proposed project under this chapter, the governing authority of the local government unit shall advertise, in addition to any other publication required by law, its intention to issue the bonds. The intention to issue bonds shall include (a) the amount of bonds proposed to be issued; (b) the purpose for which the bonds are to be issued, including a specific description of the proposed project for which the proceeds of the bonds may be used and extended; and (c) the date upon which the governing authority proposes to direct the issuance of such bonds. Such intention to issue bonds shall be published once in at least one (1) newspaper published in such local government unit. The publication of such intention to issue bonds shall be made not less than thirty (30) days before the date upon which the governing authority proposes to direct the issuance of the bonds. If no newspaper be published in such local government unit, then such notice shall be given by publishing the intention to issue bonds for the required time in some newspaper having a general circulation in such local government unit and, in addition, by posting a copy of such intention to issue bonds for at least thirty (30) days next preceding the date fixed therein at three (3) public places in such local government unit. The newspaper publication shall be a notice that shall not be less than forty (40) square inches in size and surrounded by a one-fourth-inch solid black border. The notice shall be headlined "NOTICE OF BOND ISSUE" and the headline shall be no smaller than thirty (30) point type. The remainder of the notice shall be no smaller than ten (10) point type. The notice shall not be placed in any portion of the newspaper where legal notices and classified advertisements appear.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 12, eff from and after passage (approved Aug. 30, 2000.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:
"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

§ 57-64-17. Promulgation of rules and regulations.

The MDA is hereby authorized and empowered to promulgate and put into effect, in accordance with the Mississippi Administrative Procedures Law, all reasonable rules and regulations that it may deem necessary to carry out the provisions of the Regional Economic Development Act. Nothing in the Regional Economic Development Act shall in any way confer to the MDA the authority to impose a sales tax or other tax of any kind.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 13, eff from and after passage (approved Aug. 30, 2000.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:
"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."
Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

ATTORNEY GENERAL OPINIONS

The Mississippi Development Authority cannot establish through its rules and regulations a bifurcated process of application for approval and financing of the project. Rohrlack, Jr., May 24, 2002, A.G. Op. #02-0275.

§ 57-64-19. Intergovernmental cooperation and coordination; powers with regard to certain projects [Paragraph (2)(a) repealed effective July 1, 2012.]

(1) The alliance is authorized to cooperate and coordinate with economic development commissions, authorities, districts, travel, and other similar commissions and boards, or other similar agencies of other states, the federal government, and with county, municipal, and regional economic development, travel, and other similar commissions or boards, or other agencies thereof, and other political subdivisions of this state, for the purposes of securing economic development within the State of Mississippi and other states, and to accomplish this purpose.

(2) With regard to a project as defined in Section 57-75-5(f) (xxi) a regional economic development alliance shall have the following powers:

(a) **Repealed effective July 1, 2012.** — To acquire by purchase, lease, gift or condemnation, including quick-take eminent domain pursuant to Sections 11-27-81 through 11-27-89, or obtain options to acquire, and to own, maintain, use, operate and convey any and all property of any kind, real, personal, or mixed, or any interest or estate therein, including, but not limited to, leasehold interests, within the project area, necessary for the project. In acquiring lands by condemnation, including the exercise of quick-take eminent domain, for the project the alliance may acquire oil, gas and other minerals, mineral rights, including severed oil, gas and reservations in mineral rights. The provisions of this paragraph (a) that allow the acquisition of property by quick-take eminent domain or condemnation shall be repealed by operation of law on July 1, 2012.

(b) To negotiate the necessary relocation or rerouting of roads and highways, railroad, telephone and telegraph lines and properties, electric power lines, pipelines and related facilities, cellular towers and related facilities, or to require the anchoring or other protection of any of these, provided due compensation is paid to the owners thereof or agreement is had with such owners regarding the payment of the cost of such relocation, and to acquire by condemnation or otherwise easements or rights-of-way for such relocation or rerouting and to convey the same to the owners of the facilities being relocated or rerouted in connection with the purposes of the project.

(c) To negotiate the necessary relocation of graves and cemeteries and to pay all reasonable costs thereof as necessary for the project.

(d) To lease, sell or convey any or all property acquired by the alliance or its agent under the provisions of this section to the enterprise operating the project, its affiliates, successors or assigns, and in connection therewith to warrant title to pay the costs of title search, perfection of title, title insurance and recording fees as may be required for the project.

(e) To establish and maintain reasonable rates and charges for the use of any facility or property within the project area owned or operated by the alliance, and from time to time, to adjust such rates and to impose penalties for failure to pay such rates and charges when due as necessary for the project.

(f) To establish land use restrictions within the lands adjacent to the project site. Within the lands identified as necessary for the project, the following land uses are prohibited:

(i) Heavy industrial uses, where the assembly, fabrication, or processing of goods and materials using processes that ordinarily have greater than average impacts on the environment, or that ordinarily have significant impacts on the use and enjoyment of other properties in terms of noise, smoke, fumes, odors, glare, or health or safety hazards, which shall include, enameling, lacquering; foundries producing iron and steel products; industrial chemical manufacture; meat packing plants; oxygen manufacture and/or storage; pottery, porcelain and vitreous china manufacture; poultry dressing for wholesale; pressure treating of wood; stone cutting; tire recapping and retreading; resource extraction; and recycling and salvage operations.

(ii) All temporary or permanent living quarters, including, without limitation, houses, residential buildings, apartments, motels, hotels, motor lodges, mobile home parks, camping grounds, nursing homes, independent and assisted living facilities.

(iii) Schools, day care centers and hospitals.

(iv) Any of the uses set forth in this paragraph (f) which are ancillary or adjacent to an otherwise permitted use.

Notwithstanding the foregoing, these land use restrictions will not prohibit the continuation of existing uses, including rebuilding substantially in conformity with the use in existence immediately before a casualty loss. For a period of twelve (12) months from the date of adoption, the property owners within the lands identified as necessary for the project have a vested right to complete any new land use that is currently under construction.

(g) To execute contractual agreements to warrant the project site for any and all preexisting environmental issues and to indemnify an enterprise owning a project on that site for such preexisting environmental issues.

(h) To adopt and enforce all necessary and reasonable rules and regulations restrictions to carry out and effectuate the implementation of the project concerning mining or any other activity the occurrence of which may endanger the structure or operation of the project. These rules may be enforced within the project area and without the project area as necessary to protect the structure and operation of the project.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 14; Laws, 2007, ch. 303, § 12, eff from and after passage (approved Mar. 2, 2007.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:
"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

§ 57-64-21. Agreements under this chapter to include certain provisions.

Any agreement made under this chapter shall specify the following:

(a) Its duration.

(b) Its purpose or purposes.

(c) The precise organization, composition, nature and powers of any separate legal or administrative entity created thereby and the specific citation of statutory authority vested in each of the local government units which is to be a party to the agreement.

(d) The manner of financing, staffing and supplying the joint or cooperative undertaking and of establishing and maintaining a budget therefor; provided that the treasurer and/or disbursing officer of one (1) of the local government units shall be designated in the agreement to receive, disburse and account for all funds of the joint undertaking as a part of the duties of the officer or officers.

(e) The permissible method or methods to be employed in operating the alliance and the project and accomplishing the partial or complete termination or amendment of the agreement and for disposing of property upon such partial or complete termination or amendment.

(f) The provision for administration of issuance of any bonds under this chapter by a local government unit exercising the power authorized by this chapter.

(g) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking in the event that the agreement does not or may not establish a separate legal entity to conduct the joint or cooperative undertaking.

(h) A provision specifying the terms and conditions that would cause the alliance to be terminated.

(i) The manner in which the costs of the project shall be shared between the local government units.

(j) The manner in which the revenues from the project shall be shared by the local government units.

(k) Any other necessary and proper matters.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 15, eff from and after passage (approved Aug. 30, 2000.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

§ 57-64-23. Agreements under this chapter to be approved by certain officers; agreements to be filed.

(1) In the event that an agreement made pursuant to this chapter shall deal in whole or in part with the provision of services or facilities with regard to which an officer, unit or agency of the state government has constitutional or statutory powers of control, the agreement shall, as a condition precedent to its being in force, be submitted to the state officer, unit or agency having such power of control and shall be approved or disapproved by him or it as to all matters within his or its jurisdiction in the same manner and subject to the same requirements governing action of the Attorney General pursuant to subsection (2) of this section.

(2) Every agreement made by a local government unit under this chapter shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General of this state who shall determine whether the agreement is in proper form and compatible with the laws of this state. The Attorney General shall approve any such agreement submitted to him hereunder unless he shall find that it does not meet the conditions set forth herein and elsewhere in the laws of this state and shall detail in writing addressed to the governing bodies of the units concerned the specific respects in which the proposed agreement fails to meet the requirements of law.

Failure to disapprove an agreement submitted hereunder within sixty (60) days of its submission shall constitute approval thereof.

(3) Prior to its being in force, an agreement made pursuant to this chapter shall be filed with the chancery clerk of each of the counties wherein a participating local government unit is located and with the Secretary of State. The chancery clerk and the Secretary of State shall preserve such agreements as public records and index and docket the same separate and apart from all other records in his office.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 16; Laws, 2009, ch. 546, § 17, eff from and after passage (approved Apr. 15, 2009.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:
"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

§ 57-64-25. Applicability of existing laws.

All laws in regard to purchases, auditing, depositories and expenditures in general which limit the authority of the agreeing local governing units shall also apply to any joint body created by the agreement pursuant to the provisions of this chapter.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 17, eff from and after passage (approved Aug. 30, 2000.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:
"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

§ 57-64-27. Powers and authorities granted by this chapter additional and supplemental to existing powers; chapter does not authorize alliances to provide utility service other than water and sewage; chapter not a limitation on local authority to proceed with a project utilizing methods not included in this chapter.

(1) The powers and authority granted and set forth in this chapter shall be additional and supplemental to any other powers and authority granted by law and shall not amend, repeal or supersede any other powers and authority granted by law.

(2) Nothing in this chapter shall authorize an alliance to provide utility services, other than water and sewage, for compensation. This subsection shall not be construed to prevent a city, county or natural gas district from supplying utility service that it is authorized to supply in the service area that it is authorized to serve.

(3) Nothing in this chapter shall be construed to limit the authority of any local government unit to plan, construct, expand or maintain a project as defined in this chapter utilizing any method not included in this chapter, nor shall the authority to issue bonds to finance such projects or oversight of the project be construed to be transferred to the MDA.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 18, eff from and after passage (approved Aug. 30, 2000.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:
"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."
Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

§ 57-64-29. Authority of member of regional economic development alliance to negotiate purchase option for real property; preliminary engineering, environmental and related studies; costs.

A county that is a member of a regional economic development alliance created under the Regional Economic Development Act is authorized to negotiate a purchase option for real property to be used for the purposes of the alliance. A county may pay all costs incurred for the acquisition of such an option regardless of whether the county exercises the option at a later date. As a part of any such option, a county may negotiate the right to enter upon the real property before the purchase for the purpose of conducting any preliminary engineering, environmental and related surveys or studies necessary to effectuate the option. A county may pay all costs incurred for such surveys or studies regardless of whether the county exercises the option at a later date.

SOURCES: Laws, 2002, ch. 464, § 1, eff from and after passage (approved Mar. 20, 2002.)

§ 57-64-31. Eminent domain.

The board of supervisors of any county that is a member of a regional economic development alliance created under the Regional Economic Development Act may exercise the power of eminent domain for the purpose of acquiring land, property and/or rights-of-way for a project as defined in Section 57-75-5(f)(i) or any facility related to the project as defined in Section 57-75-5(d), or both. The board of supervisors of such a county shall not exercise the authority granted under this section without first receiving a binding commitment providing that such a project will be located in a county that is a member of the regional economic development alliance. The board of supervisors of such a county shall not exercise the power of eminent domain under this section after July 1, 2006.

SOURCES: Laws, 2002, ch. 464, § 2; Laws, 2004, ch. 378, § 1, eff from and after July 1, 2004.

§ 57-64-33. Repealed.

Repealed by Laws, 2004, ch. 481, § 1, eff from and after passage (approved May 1, 2004).

[Laws, 2002, ch. 464, § 4, eff from and after passage (approved Mar. 20, 2002.)]

Editor's Note — Former § 57-64-33 provided that a business enterprise operating certain projects in a county that is a member of a regional economic development alliance would be exempt from all local taxes levied by the county and all state taxes for a period of ten (10) years or until December 31, 2015, whichever occurred first.

CHAPTER 65

Mississippi International Trade Institute

Sec.
57-65-1. Establishment; functions and duties.

§ 57-65-1. Establishment; functions and duties.

(1) The Department of Economic Development may establish a Mississippi International Trade Institute, hereinafter referred to as the MITI.

(2) It shall be the function and duties of the MITI to:

(a) Gather, evaluate, interpret and publish international trade data on Mississippi's foreign trade.

(b) Represent the state in responding to, and assisting, foreign officials or business representatives and domestic representatives in undertaking appropriate foreign trade development.

(c) Establish liaison with those federal and state agencies and organizations engaged in international trade to assure for Mississippi the best possible posture for expanding its international trade economy.

(d) Serve as a clearinghouse for inquiries received from foreign business persons seeking information on product distribution, sales, trade agreements, manufacturing, licensing and similar matters.

(e) Publish a directory of prominent businesses and organizations in Mississippi's foreign trade, with a product guide.

(f) Provide special assistance to Mississippi's agricultural producers and firms engaged in the marketing of agricultural products produced in Mississippi to develop overseas markets.

(g) Communicate with foreign, national, state and local agencies, and public and private persons, associations and corporations regarding international marketing of agricultural products produced in Mississippi.

(3) In executing the duties assigned in this section, the MITI shall work closely with other state and local agencies having responsibility for economic development.

(4) It is the intention of the Legislature that the Department of Economic Development shall establish such institute if personnel and funds are made available therefor.

SOURCES: Laws, 1987, ch. 435; Laws, 1988, ch. 518, § 87, eff from and after July 1, 1988.

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

CHAPTER 67

Mississippi Superconducting Super Collider Act

Sec.
57-67-1. Short title.
57-67-3. Legislative findings and declarations.
57-67-5. Definitions.
57-67-7. Mississippi Superconducting Super Collider Authority created; executive director.
57-67-9. Submission of site proposal; development of project; special advisory committees.
57-67-11. General powers and duties of authority.
57-67-13. Board of Trustees of State Institutions of Higher Learning; powers and duties.
57-67-15. State general obligation bonds and notes generally; Superconducting Super Collider Special Fund.
57-67-17. Powers and duties of public agencies and political subdivisions.
57-67-19. Power of authority to borrow money and issue bonds generally.
57-67-21. Power of authority to issue refunding bonds.
57-67-23. Validation of bonds.
57-67-25. Liability for payment of bonds.
57-67-27. Security for payment of bonds.
57-67-29. Specific powers of authority in connection with bonds.
57-67-31. Obligations of state in connection with bonds.
57-67-33. Taxation of bonds.
57-67-35. Bonds as legal investments and securities.
57-67-37. Minority small business concerns.
57-67-39. Construction of chapter.

§ 57-67-1. Short title.

This chapter shall be known and may be cited as the "Mississippi Superconducting Super Collider Act."

SOURCES: Laws, 1987 Ex Sess, ch. 24, § 1, eff from and after passage (approved August 29, 1987).

§ 57-67-3. Legislative findings and declarations.

The Legislature hereby finds and declares that:

(a) There exists in the State of Mississippi a continuing need for gainful employment for the citizens of this state.

(b) To help provide employment opportunities, a division within the Office of the Governor should be created with power to secure the location within this state of the particle beam accelerator known as the Superconducting Super Collider that the United States Department of Energy is planning to build.

(c) In accomplishing this purpose, such division will be acting in all respects for the benefit of the people of the state in the performance of essential public functions and is serving a valid public purpose in improving and otherwise promoting their health, welfare and prosperity, and the enactment of the provisions hereinafter set forth is for a valid public purpose.

(d) Public agencies of the state, as herein defined, must be authorized and empowered to contract with and cooperate with the authority for the purposes herein set out.

(e) The borrowing of money and the issuance of bonds and state bonds for the purposes hereinafter set out serves valid public purposes in that the project will significantly contribute to the employment base and scientific and educational growth of the state.

SOURCES: Laws, 1987, Ex Sess ch. 24, § 2, eff from and after passage (approved August 29, 1987).

§ 57-67-5. Definitions.

Words and phrases used in this chapter shall have meanings as follows, unless the context clearly indicates a different meaning:

(a) "Act" means the Mississippi Superconducting Super Collider Act as originally enacted or as hereafter amended.

(b) "Authority" means the Mississippi Superconducting Super Collider Authority created pursuant to the chapter.

(c) "Bonds" means bonds, interim notes and other certificates of indebtedness of the authority issued pursuant to the provisions of Sections 57-67-19 through 57-67-31.

(d) "Facility related to the project" means and includes any of the following, as the same may pertain to the project:

(i) facilities to provide potable and industrial water supply systems (including cooling lakes) and sewage and waste disposal systems to the site of the project;

(ii) airports, airfields and air terminals;

(iii) rail lines;

(iv) port facilities on the Tennessee-Tombigbee Waterway;

(v) highways, streets and other roadways;

(vi) public school buildings, classrooms and instructional facilities, including any functionally related facilities;

(vii) parks, outdoor recreation facilities and athletic facilities; and

(viii) auditoriums, pavilions, campgrounds, art centers, cultural centers, folklore centers and other public facilities.

(e) "Person" means any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, governmental unit, public agency, political subdivision, or any other group acting as a unit, and the plural as well as the singular.

(f) "Project" means the superconducting super colliding particle beam accelerator, known as the Superconducting Super Collider, proposed to be constructed by the United States Department of Energy, as described in the Invitation for Proposals issued by said department, as now or hereafter supplemented or amended, together with all real property required for construction, maintenance and operation of the Superconducting Super Collider, and all buildings, tunneling and other supporting land and facilities required or useful for construction, maintenance and operation of the Superconducting Super Collider.

(g) "Project area" means the project site, together with any area or territory within the state lying within fifty (50) air miles from any portion of the project site to be conveyed to the Department of Energy, whether or not such area or territory be contiguous. "Project site" means the real property to be conveyed to the United States Department of Energy as set forth in the application to be filed with the Department of Energy by the authority.

(h) "Public agency" means and includes:

(i) the state and any department, board, commission, institution or other agency or instrumentality of the state, including but not limited to, the Board of Trustees of State Institutions of Higher Learning and the State Board of Education;

(ii) any city, town, county, political subdivision, school district or other district created or existing under the laws of the state or any public agency of any such city, town, county, political subdivision or district;

(iii) any department, commission, agency or instrumentality of the United States of America; and

(iv) any other state of the United States of America which may be cooperating with respect to location of the project within the state, or any agency thereof.

(i) "State" means State of Mississippi.

(j) "State bonds" means general obligation bonds, notes or other evidences of the State of Mississippi issued under Section 57-67-15.

SOURCES: Laws, 1987 Ex Sess, ch. 24, § 3, eff from and after passage (approved August 29, 1987).

Cross References — Board of Trustees of State Institutions of Higher learning, see §§ 37-101-1 et seq.

§ 57-67-7. Mississippi Superconducting Super Collider Authority created; executive director.

(1) There is created within the Office of the Governor a division to be known as the "Mississippi Superconducting Super Collider Authority" for the performance of essential public functions. The Governor shall appoint, with the advice and consent of the Senate, an executive director, who shall serve at the will and pleasure of the Governor. The Governor shall prescribe the duties of and fix the compensation of such executive director. The executive director shall have the authority to employ and dismiss employees of the authority.

(2) The executive director shall administer, manage and direct the affairs and business of the authority, subject to the policies, direction, control and approval of the Governor.

SOURCES: Laws, 1987 Ex Sess, ch. 24, § 4, eff from and after passage (approved August 29, 1987).

§ 57-67-9. Submission of site proposal; development of project; special advisory committees.

(1) The authority is hereby designated and empowered to act on behalf of the state in submitting a siting proposal for the project. If the authority is not operational as of the date of the proposal, the Governor is authorized to submit the proposal. The authority is empowered to take all steps appropriate or necessary to effect the siting, development, and operation of the Superconducting Super Collider research facility within the state. If the state is selected as the preferred site for the project, the authority is hereby designated and empowered to act on behalf of the state and to represent the state in the planning, financing, development, construction and operation of the project or any facility related to the project. The authority shall take affirmative steps to coordinate fully all aspects of the submission of a siting proposal for the project and, if the state is selected as the preferred site, to coordinate fully the development of the project or any facility related to the project with the United States Department of Energy and other public agencies. Other state agencies and local governmental entities in this state shall cooperate to the fullest extent possible to effectuate the duties of the authority.

(2) To consult with the Governor and with the authority concerning the siting, development and operation of the Superconducting Super Collider research facility in the state, the Governor may establish special advisory committees, as he deems necessary, which may be composed of lay persons, scientists, physicists, engineers, other professionals and anyone having special knowledge of or interest in the project.

SOURCES: Laws, 1987 Ex Sess, ch. 24, § 5, eff from and after passage (approved August 29, 1987).

§ 57-67-11. General powers and duties of authority.

The authority, in addition to any and all powers now or hereafter granted to it, is hereby empowered:

(a) To maintain an office at a place or places in the state.

(b) To employ or contract with architects, engineers, attorneys, accountants, construction and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix and pay their compensation.

(c) To make such applications and enter into such contracts for financial assistance as may be appropriate under applicable federal or state law.

(d) To apply for, accept and utilize grants, gifts and other funds or aid from any source for any purpose contemplated by the chapter, and to comply, subject to the provisions of this chapter, with the terms and conditions thereof.

(e) To acquire by purchase, lease, gift, or in other manner other than by eminent domain, or obtain options to acquire, and to own, maintain, use, operate and convey any and all property of any kind, real, personal, or mixed, or any interest or estate therein, (including easements, rights-of-way, air rights or subsurface rights, or a stratified fee estate in a specified volume of land located below, at, or above the surface) within or without the project area, necessary or convenient for the project or any facility related to the project or necessary or convenient for any enhancement offered to secure the siting of the project in the state or for the exercise of the powers granted by this chapter.

(f) To acquire by purchase or lease any public lands and public property, including sixteenth section lands and lieu lands, within the project area, which are necessary or convenient for the project. Sixteenth section lands or lieu lands acquired under this chapter shall be deemed to be acquired for the purposes of industrial development thereon and such acquisition will serve a higher public interest in accordance with the purposes of this chapter.

(g) To make or cause to be made such examinations and surveys as may be necessary to the planning, design, construction and operation of the project; and for such purpose the authority, its agents, servants, or any public agency involved in the project selection, design, construction or operation, shall have immediate and full right of entry upon the lands and waters of any person for the purposes of survey and exploration.

(h) From and after the date of notification to the authority by the Department of Energy that the state has been finally selected as the site of the project, to acquire by condemnation and to own, maintain, use, operate and convey or otherwise dispose of any and all property of any kind, real, personal or mixed, or any interest or estate therein, (including easements, rights-of-way, air rights or subsurface rights, or a stratified fee estate in a specified volume of land located below, at, or above the surface), within the project area, necessary or convenient for the project or any facility related to the project and the exercise of the powers granted by this chapter, according to the procedures provided by Chapter 27, Title 11, Mississippi Code of 1972, except as modified by this chapter. For the purposes of this chapter, the right of eminent domain shall be superior and dominant to the right of eminent domain of other public agencies and of railroad, telephone, telegraph, gas, power and other companies or corporations and shall extend to public and private lands including sixteenth section lands. The amount and character of interest in land, other property, and easements thus to be acquired shall be determined by the authority, and its determination shall be conclusive and shall not be subject to attack in the absence of manifest abuse of discretion or fraud on the part of the authority in making such determination. However,

(i) In acquiring lands by condemnation, the authority shall not acquire minerals or royalties in minerals unless a competent registered professional engineer shall have certified that the acquisition of such minerals and royalties in minerals is necessary for purposes of the project;

provided that limestone, clay, chalk, sand and gravel shall not be considered as minerals within the meaning of this section; and

(ii) Unless minerals or royalties in minerals have been acquired by condemnation or otherwise, no person or persons owning the drilling rights or the right to share in production of minerals shall be prevented from exploring, developing, or producing oil or gas with necessary rights-of-way for ingress and egress, pipelines and other means of transporting interests on any land or interest therein of the authority held or used for the purposes of this chapter; but any such activities shall be under such reasonable regulation by the authority as will adequately protect the project contemplated by this chapter as provided in subparagraph (s) of this section. For the purpose of acquiring by condemnation land and easements for the project or any facility related to the project located within the project area, the authority shall have the right of immediate possession pursuant to Sections 11-27-81 through 11-27-89.

(i) In any proceeding in any court which has been or may be instituted by and in the name of the authority for the acquisition of any land or easement or right-of-way in land for the public use as provided in subparagraph (h) of this section, the authority may file in the cause, with the petition or at any time before judgment, a declaration of taking signed by the authority, declaring that said lands are thereby taken for the use of the authority in connection with the location of the project. Said declaration of taking shall contain or have annexed thereto:

(i) A statement of the statutory authority under which and the public use for which said lands are taken.

(ii) A description of the lands taken sufficient for the identification thereof.

(iii) A statement of the estate or interest in said lands taken for said public use.

(iv) A statement of the necessity of the immediate vesting of title in the authority in order to convey such property to the United States for the use in connection with the project.

(v) A statement of the sum of money estimated by the authority to be due compensation for the land taken. Upon filing the declaration of taking and of the deposit in the court, to the use of the persons entitled thereto, of the amount of the estimated compensation stated in the declaration, title to such lands in fee simple absolute, or such less estate or interest therein as is specified in the declaration, shall vest in the authority, and such lands shall be deemed to be condemned and taken for the use of the authority, and the right to due compensation for the same shall vest in the persons entitled thereto; and compensation shall be ascertained and awarded in the proceeding and established by judgment therein, and the judgment shall include, as part of the due compensation awarded, interest in accordance with law on the amount finally awarded as the value of the property as of the date of taking, from such date to the date of payment; but interest shall not be allowed on so much thereof as shall have been paid into the court. No sum so paid into the court shall be charged with commissions or poundage.

Upon the application of the parties in interest, the court may order that the money deposited in the court, or any part thereof, be paid forthwith for or on account of the due compensation to be awarded in the proceeding. If the compensation finally awarded in respect of such lands, or any parcel thereof, shall exceed the amount of the money so received by any person entitled, the court shall enter judgment against the authority for the amount of the deficiency.

Upon the filing of a declaration of taking, the court shall have power to fix the time within which and the terms upon which the parties in possession shall be required to surrender possession to the petitioner. The court shall have power to make such orders in respect of encumbrances, liens, rents, taxes, assessments, insurance, and other charges, if any, as shall be just and equitable. No appeal in any cause under this subparagraph (i) of this section nor any bond or undertaking given therein shall operate to prevent or delay the vesting of title to such lands in the authority.

(j) To require the necessary relocation or rerouting of roads and highways, railroad, telephone and telegraph lines and properties, electric power lines, pipelines and related facilities, or to require the anchoring or other protection of any of these, provided due compensation is paid to the owners thereof or agreement is had with such owners regarding the payment of the cost of such relocation, and to acquire by condemnation or otherwise easements or rights-of-way for such relocation or rerouting and to convey the same to the owners of the facilities being relocated or rerouted in connection with the purposes of this chapter.

(k) To require the necessary relocation of cemeteries and to pay all reasonable costs thereof.

(*l*) To perform or have performed any and all acts and make all payments necessary to comply with all applicable federal laws, rules or regulations including but not limited to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, 4602, 4621 to 4638, and 4651 to 4655) and relocation rules and regulations promulgated by the Department of Energy.

(m) To construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained, and reconstructed, and to use and operate any and all components of the project or any facility related to the project, within the project area, necessary or convenient to the project and to the exercise of such powers, rights, and privileges granted the authority.

(n) To incur or defray any designated portion of the cost of any component of the project or any facility related to the project acquired or constructed by any public agency.

(o) To lease, sell, give, donate, convey or otherwise transfer any or all property acquired by the authority under the provisions of this chapter to the United States Department of Energy, its successors or assigns, and in connection therewith to pay the costs of title search, perfection of title, title insurance and recording fees as may be required. The authority may provide in the instrument conveying such property a provision that such property shall revert to the authority if, as and when the property is declared by the United States Department of Energy to be no longer needed for the Superconducting Super Collider research facility.

(p) To enter into contracts with any person, public agency or political subdivision including, but not limited to, contracts authorized by Section 57-67-17, in furtherance of any of the purposes authorized by this chapter upon such consideration as the authority and such person, public agency or political subdivision may agree. Any such contract may extend over any period of time, notwithstanding any rule of law to the contrary, may be upon such terms as the parties thereto shall agree, and may provide that it shall continue in effect until bonds specified therein, refunding bonds issued in lieu of such bonds, and all other obligations specified therein are paid or terminated. Any such contract shall be binding upon the parties thereto according to its terms. Such contracts may include an agreement to reimburse the United States Department of Energy, its successors and assigns for any assistance provided by the United States Department of Energy in the acquisition of real property for the project or any facility related to the project.

(q) To establish and maintain reasonable rates and charges for the use of any facility within the project area owned or operated by the authority, and from time to time to adjust such rates and to impose penalties for failure to pay such rates and charges when due.

(r) To make and enforce, and from time to time amend and repeal, rules and regulations for the construction, use, maintenance and operation of any facility related to the project under its management and control and any other of its properties.

(s) To adopt and enforce all necessary and reasonable rules and regulations to carry out and effectuate the implementation of the project and any land use plan or zoning classification adopted for the project area, including but not limited to rules, regulations, and restrictions concerning mining, construction, excavation or any other activity the occurrence of which may endanger the structure or operation of the project. Such rules may be enforced within the project area and without the project area as necessary to protect the structure and operation of the project. The authority is authorized to plan or replan, zone or rezone, and make exceptions to any regulations, whether local or state, which are inconsistent with the design, planning, construction or operation of the project and facilities related to the project.

(t) To plan, design, coordinate and implement measures and programs to mitigate impacts on the natural environment caused by the project or any facility related to the project.

(u) To assist any public agency involved with the project design, construction or operation in securing any state or local permits and approval required for the project or any facility related to the project.

(v) To do any and all things necessary or convenient to carry out the authority's purposes and to exercise the powers given and granted in this chapter.

SOURCES: Laws, 1987 Ex Sess, ch. 24, § 6, eff from and after passage (approved August 29, 1987).

Editor's Note — Laws of 1989, ch. 460, §§ 1 and 2, effective from and after July 1, 1989, provide as follows:

"SECTION 1. The State Fiscal Management Board is authorized and empowered to transfer to the State General Fund, out of the following enumerated special funds, amounts not to exceed in the aggregate the sums listed below for each special fund in such a manner throughout the 1990 fiscal year as deemed prudent by the board:

Agency/Fund	Fund No.	Amount
Unemployment Insurance Fund	3644	$5,500,000
Super Collider Funds	3107	500
	3108	273,272
Treasurer Due Shareholder	3172	250,000
Corrections Bond Fund Interest Income	391A	6,103,191
Local Disaster Emergency Grant	3793	1,000,000
Tax Commission-Telecommunication Fund	3184	500,000
Veteran's Home Construction Fund	3915	402,852
Construction and Renovation	2916	56,000
Fire Academy Construction Fund	3990	509,000

"SECTION 2. With respect to the amount to be transferred from the Treasurer Due Shareholder Fund under the provisions of Section 1, it is the intent of the Legislature that the transfer of these funds shall not excuse the state of any liability due any shareholder."

Cross References — Eminent domain generally, see §§ 11-27-1 et seq.

Sixteenth section or lieu lands generally, see §§ 29-3-1 et seq.

Federal Aspects — Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, see 42 USCS §§ 4601, 4602, 4621-4638, and 4651-4655.

§ 57-67-13. Board of Trustees of State Institutions of Higher Learning; powers and duties.

(1) The Board of Trustees of State Institutions of Higher Learning is hereby directed to develop plans for the creation of an Institute of High Energy Physics. Upon notification to the authority by the Department of Energy that the state has been selected as the site of the project, the Board of Trustees of State Institutions of Higher Learning not later than one (1) year thereafter shall establish and create the institute. Such institute shall include at least twenty (20) funded faculty positions and shall include facilities to accommodate faculty and graduate students.

(2) The Board of Trustees of State Institutions of Higher Learning is hereby directed to develop plans for the creation of an Institute for Mathematics and Computing Sciences. Upon notification to the authority by the Department of Energy that the state has been selected as the site of the project, the Board of Trustees of State Institutions of Higher Learning not later than one (1) year thereafter shall establish and create the institute.

(3) The authority is hereby directed to develop plans for technology transfer activities to ensure private sector conduits for exchange of information, technology and expertise related to the project to generate opportunities for commercial development within the state.

SOURCES: Laws, 1987 Ex Sess, ch. 24, § 7, eff from and after passage (approved August 29, 1987).

Cross References — Board of Trustees of State Institutions of Higher learning, see §§ 37-101-1 et seq.

§ 57-67-15. State general obligation bonds and notes generally; Superconducting Super Collider Special Fund.

(1) Upon notification to the authority by the Department of Energy that the state has been finally selected as the site for the project, the State Bond Commission shall have the power and is hereby authorized and directed, upon receipt of a declaration from the Governor as hereinafter provided, to borrow money and issue general obligation bonds of the state in one or more series for the purposes herein set out. Upon such notification, the Governor may thereafter from time to time declare the necessity for the issuance of general obligation state bonds as authorized by this section and forward such declaration to the State Bond Commission, provided that prior to said notification, the Governor may enter into agreements with the United States Government and others that will commit the Governor to direct the State Bond Commission to issue bonds for eligible undertakings set out in subsection (4) of this section, conditioned on the siting of the project in the state.

(2) Upon receipt of any such declaration from the Governor, the State Bond Commission, upon verifying that the state has been selected as the site of the project, shall act as the issuing agent for the series of state bonds directed to be issued in such declaration pursuant to authority granted in this section.

(3) Bonds issued under the authority of this section shall not exceed an aggregate principal amount in the sum of Five Hundred Million Dollars ($500,000,000.00).

(4) The proceeds from the sale of the state bonds issued pursuant to this section may be applied for the purposes of: (a) defraying all or any designated portion of the costs incurred with respect to acquisition, planning, design, construction, installation, rehabilitation, improvement and relocation of the project and any facility related to the project located within the project area, including costs of design and engineering, all costs incurred to provide land, easements and rights-of-way, relocation costs with respect to the project and with respect to any facility related to the project located within the project area, and costs associated with mitigation of environmental impacts; (b) providing for the payment of interest on the bonds; (c) providing debt service reserves; and (d) paying underwriters discount, original issue discount, accountants' fees, engineers' fees, attorney's fees, rating agency fees and other

fees and expenses in connection with the issuance of the bonds. Such bonds shall be issued from time to time and in such principal amounts as shall be designated by the Governor not to exceed in aggregate principal amount the amount authorized in subsection (3) of this section. Proceeds from the sale of the state bonds issued pursuant to this section may be invested, subject to federal limitations, pending their use, in such securities as may be specified in the resolution authorizing the issuance of the bonds or the trust indenture securing them, and the earning on such investment applied as provided in such resolution or trust indenture.

(5) The principal of and the interest on the state bonds shall be payable in the manner hereinafter set forth. The state bonds shall bear date or dates, be in such denomination or denominations, bear interest at such rate or rates, be payable at such place or places within or without the state, shall mature absolutely at such time or times, be redeemable prior to maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by resolution of the State Bond Commission. Provided, however, that such state bonds shall mature or otherwise be retired in annual installments beginning not more than five (5) years from date thereof and extending not more than twenty-five (25) years from date thereof. The state bonds shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the State Bond Commission shall be imprinted on or affixed thereto, attested by the manual or facsimile signature of the Secretary of the State Bond Commission. Whenever any such state bonds shall have been signed by the officials herein designated to sign the bonds, who were in the office at the time of such signing but who may have ceased to be such officers prior to the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until the delivery of the same to the purchaser, or had been in office on the date such bonds may bear.

(6) All state bonds issued under the provisions of this section shall be and are hereby declared to have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code and in exercising the powers granted by this chapter, the State Bond Commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

(7) The State Bond Commission shall sell the state bonds on sealed bids at public sale, and for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale shall be made at a price less than par plus accrued interest to date of delivery of the bonds to the purchaser. The state bonds shall bear interest at such rate or rates not exceeding the limits set forth in Section 75-17-101 as shall be fixed by the State Bond Commission. All interest accruing on such bonds so issued shall be payable semiannually or annually; provided that the first interest payment may be for any period of not more than one (1) year.

The lowest interest rate specified for any bonds issued shall not be less than sixty percent (60%) of the highest interest rate specified for the same bond issue. Each interest rate specified in any bid must be in a multiple of one-eighth of one percent (⅛ of 1%) or one-tenth of one percent (⅒ of 1%) and a zero rate of interest cannot be named. Notice of the sale of any state bond shall be published at least one (1) time, the first of which shall be made not less than ten (10) days prior to the date of sale, and shall be so published in one or more newspapers having a general circulation in the City of Jackson and in one or more other newspapers or financial journals with a large national circulation, to be selected by the State Bond Commission.

The State Bond Commission, when issuing any state bonds under the authority of this section, may provide that the bonds, at the option of the state, may be called in for payment and redemption in reverse order of maturity at the call price named therein and accrued interest on such date or dates named therein.

(8) State bonds issued under the provisions of this section shall be the general obligations of the state and backed by the full faith and credit of the state, and if the funds appropriated by the Legislature shall be insufficient to pay the principal of and the interest on such bonds as they become due, then the deficiency shall be paid by the State Treasurer from any funds in the State Treasury not otherwise appropriated. All state bonds shall contain recitals on their faces substantially covering the foregoing provisions of this section.

(9) The State Treasurer is hereby authorized, without further process of law, to certify to the State Fiscal Management Board the necessity for warrants, and the State Fiscal Management Board is hereby authorized and directed to issue such warrants payable out of any funds authorized by this section for such purpose, in such amounts as may be necessary to pay when due the principal of and interest on all state bonds issued under the provisions of this section; and the State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

(10) The state bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by this chapter. Any resolution providing for the issuance of general obligation state bonds under the provisions of this section shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular or special meeting of the State Bond Commission by a majority of its members.

(11) In anticipation of the issuance of state bonds hereunder, the State Bond Commission is hereby authorized to negotiate and enter into any purchase, loan, credit or other agreement with any bank, trust company or other lending institution or to issue and sell short-term notes for the purpose of making any payments authorized under this section. All borrowings made under this provision shall be evidenced by notes of the state which shall be issued from time to time, for such amounts not exceeding the amount of state

bonds authorized herein, in such form and in such denomination and subject to such terms and conditions of sale and issuance, prepayment or redemption and maturity, rate or rates of interest not to exceed the maximum rate authorized herein for bonds, and time of payment of interest as the State Bond Commission shall agree to in such agreement. Such notes shall constitute general obligations of the state and shall be backed by the full faith and credit of the state. Such notes may also be issued for the purpose of refunding previously issued notes; provided that no notes shall mature more than three (3) years following the date of issuance of the first note hereunder and provided further, that all outstanding notes shall be retired from the proceeds of the first issuance of bonds hereunder. The State Bond Commission is authorized to provide for the compensation of any purchaser of the notes by payment of a fixed fee or commission and for all other costs and expenses of issuance and service, including paying agent costs. Such costs and expenses may be paid from the proceeds of the notes.

(12) The bonds and notes authorized under the authority of this section may be validated in the First Judicial District of the Chancery Court of Hinds County, Mississippi, in the manner and with the force and effect provided now or hereafter by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The necessary papers for such validation proceedings shall be transmitted to the state bond attorney, and the required notice shall be published in a newspaper published in the City of Jackson, Mississippi.

(13) There is hereby created in the State Treasury a special fund, separate and apart from any other fund, to be designated as the "Superconducting Super Collider Special Fund." On July 15 immediately succeeding the date that the state has been finally selected as the site for the project and on or before the fifteenth day of each succeeding month thereafter until a period of time not to exceed twenty-five (25) years from the initial deposit or until the date that all state bonds issued under this chapter are retired, whichever occurs last in time, the State Treasurer shall deposit into the Superconducting Super Collider Special Fund the sum of Three Million Seven Hundred Fifty Thousand Dollars ($3,750,000.00) from taxes collected under the provisions of Chapter 7, Title 27, Mississippi Code of 1972. Funds deposited in the special fund shall be used to pay the principal of and interest on the state bonds issued under this section and any balance in the special fund in excess of the amount needed to pay the principal of and interest on the state bonds shall be appropriated by the Legislature to defray expenses of the project, facilities related to the project or enhancements within the project area.

SOURCES: Laws, 1987 Ex Sess, ch. 24, § 8, eff from and after passage (approved August 29, 1987).

Editor's Note — Section 27-104-1 provides that the term "Fiscal Management Board" shall mean the "Department of Finance and Administration".

Laws of 1989, ch. 460, §§ 1 and 2, effective from and after July 1, 1989, provide as follows:

"SECTION 1. The State Fiscal Management Board is authorized and empowered to transfer to the State General Fund, out of the following enumerated special funds, amounts not to exceed in the aggregate the sums listed below for each special fund in such a manner throughout the 1990 fiscal year as deemed prudent by the board:

Agency/Fund	Fund No.	Amount
Unemployment Insurance Fund	3644	$5,500,000
Super Collider Funds	3107	500
	3108	273,272
Treasurer Due Shareholder	3172	250,000
Corrections Bond Fund Interest Income	391A	6,103,191
Local Disaster Emergency Grant	3793	1,000,000
Tax Commission-Telecommunication Fund	3184	500,000
Veteran's Home Construction Fund	3915	402,852
Construction and Renovation	2916	56,000
Fire Academy Construction Fund	3990	509,000

"SECTION 2. With respect to the amount to be transferred from the Treasurer Due Shareholder Fund under the provisions of Section 1, it is the intent of the Legislature that the transfer of these funds shall not excuse the state of any liability due any shareholder."

Cross References — Validation of bonds generally, see §§ 31-13-1 et seq.

State Bond Commission generally, see §§ 31-17-1 et seq.

Uniform Commercial Code negotiable instruments, see §§ 75-3-101 et seq.

§ 57-67-17. Powers and duties of public agencies and political subdivisions.

For the purpose of aiding in the planning, design, undertaking and carrying out of the project or any facility related to the project, or any educational, cultural, housing or recreational facility or enhancement offered to secure the siting of the project in the state, any public agency or political subdivision of any kind is authorized and empowered upon such terms, with or without consideration, as it may determine: (a) to enter into agreements, which may extend over any period, with the authority respecting action to be taken by such public agency or political subdivision with respect to the acquisition, planning, construction, improvement, operation, maintenance or funding of the project or any such facility or enhancement, including without limitation (i) the appropriation or payment of funds to the authority or to a trustee in amounts which shall be sufficient to enable the authority to defray any designated portion or percentage of the expenses of administering, planning, designing, constructing, acquiring, improving, operating, and maintaining the project or any such facility or enhancement, (ii) the appropriation or payment of funds to the authority or to a trustee to pay interest and principal (whether at maturity or upon sinking fund redemption) on bonds of the authority issued pursuant to this chapter and to fund reserves for debt service, for operation and maintenance and for renewals and replacements, and to fulfill requirements of any covenant with respect to debt service contained in any resolution, trust indenture or other security agreement relating to the bonds of the authority issued pursuant to this chapter and (iii) the furnishing of other assistance in connection with the project or any such facility or enhancement; (b) to dedicate, sell, donate, convey or lease any property or interest in property to the authority or grant easements, licenses or other rights or privileges therein to the authority; (c) to incur the entire expense of any public improvements made or to be made by such public agency or political subdivision in exercising the powers granted in this section; (d) to do any and all things necessary to aid or cooperate in the planning or carrying out of the project or any such facility or enhancement; (e) to lend, grant or contribute funds to the authority; (f) to cause public buildings and public facilities, including parks, playgrounds, recreational areas, community meeting facilities, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished to or with respect to the project or any such facility or enhancement; (g) to furnish, dedicate, close, vacate, pave, install, upgrade or improve highways, streets, roads, sidewalks, airports, railroads, ports or other public facilities; (h) to plan or replan, zone or rezone any parcel of land within the public agency or political subdivision or make exceptions from land use, building and zoning regulations; and (i) to cause administrative and other services to be furnished to the authority, including services pertaining to the acquisition of real property and the furnishing of relocation assistance. Any contract between a public agency or political subdivision entered into with the authority pursuant to any of the powers granted by this chapter shall be binding upon said public agency or political subdivision according to its terms, and such public agency or political subdivision shall have the power to enter into such contracts as in the discretion of the governing authorities thereof would be to the best interest of the people of such public agency or political subdivision. Such contracts may include within the discretion of such governing authorities a pledge of the full faith and credit of such political subdivision for the performance thereof. If such contracts include a pledge of the full faith and credit of such political subdivision, then for the purposes of Sections 27-39-321 and 37-57-107, the indebtedness created by such contracts shall be deemed to be general obligation bonds. The obligations of any public agency or political subdivision arising under the terms of such contracts shall not be included within the indebtedness of such public agency or political subdivision for the purposes of any constitutional or statutory limitation or provision. If at any time title to or possession of the project or any such facility or enhancement is held by any public body or governmental agency other than the authority, including any agency or instrumentality of the United States of America, the agreements referred to in this section shall inure to the benefit of and may be enforced by such public body or governmental agency.

Notwithstanding any provisions of this chapter to the contrary, any contract entered into between the authority and any political subdivision for the appropriation or payment of funds to the authority under item (a)(ii) of this section shall contain a provision therein requiring monthly payments by the political subdivision to pay its indebtedness and, if the political subdivision is not a county or municipality, such contract shall include as an additional party to the contract the county or municipality (referred to in this paragraph as "levying authority") that levies and collects taxes for the contracting political subdivision. If the political subdivision fails to pay its indebtedness for any month, the authority shall certify to the State Tax Commission, or other appropriate agency, the amount of the delinquency, and the State Tax Commission shall deduct such amount from the political subdivision's or levying authority's, as the case may be, next allocation of sales taxes, petroleum taxes, highway privilege taxes, severance taxes, Tennessee Valley Authority payments in lieu of taxes and homestead exemption reimbursements in that order of priority. The State Tax Commission, or other appropriate agency, shall pay the sums so deducted to the authority to be applied to the discharge of the contractual obligation.

SOURCES: Laws, 1987 Ex Sess, ch. 24, § 9, eff from and after passage (approved August 29, 1987).

Cross References — Tennessee Valley Authority payments in lieu of taxes, see §§ 27-37-301 through 27-37-307.

Authority's power to enter into contracts, see § 57-67-11.

General power of the Authority to issue bonds, see § 57-67-19.

Validation of bonds issued by the Authority, see § 57-67-23.

§ 57-67-19. Power of authority to borrow money and issue bonds generally.

(1) Upon notification to the authority by the United States Department of Energy that the state has been finally selected as the site for the project, then the authority shall have the power and is hereby authorized, from time to time, pursuant to contracts entered into under Section 57-67-17, to borrow money and to issue bonds in such principal amounts as the authority may determine to be necessary to provide funds sufficient to defray all or any designated portion of the costs incurred with respect to the project or any facility related to the project, or any educational, cultural, housing or recreational facility or enhancement offered to secure the siting of the project in the state; provided that prior to said notification, the authority may enter into agreements with the United States Government or others that will commit the authority to issue bonds for eligible undertakings set out in subsection (6) of this section pursuant to contracts entered into under Section 57-67-17, conditioned on the siting of the project in the state.

(2) Bonds of the authority issued pursuant to Sections 57-67-19 through 57-67-31 shall be payable (except to the extent that payment may be made from bond proceeds deposited or accumulated in any capitalized interest fund or bond reserve fund) solely from and secured by a pledge of all or any designated part of the revenues received by the authority pursuant to contracts entered into with one or more public agencies pursuant to Section 57-67-17. Such bonds may be further secured by a trust indenture between the authority and a corporate trustee, which may be any trust company or bank having powers of a trust company within or without the state, and by reserves established to secure the payment of principal of and interest on such bonds.

Any pledge of earnings, revenues or other moneys made by the authority shall be valid and binding from the time the pledge is made. The earnings, revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind against the authority whether such parties have or do not have notice thereof. Neither the bond resolution, trust indenture nor any other instrument by which a pledge is created need be recorded.

(3) Bonds of the authority issued pursuant to Sections 57-67-19 through 57-67-31 may be authorized and issued in one or more series by a resolution or resolutions of the authority, without publication of notice of intent and without an election on the question of the issuance thereof. Such bonds shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, be in such denomination or denominations, be in such form, carry such conversion privileges, have such rank or priority, be executed in such manner and by such officers, be payable from such sources in such medium of payment at such place or places within or without the state, be subject to such terms of redemption prior to maturity, all as may be provided by resolution or resolutions of the authority. Such bonds may be executed and delivered at any time as a single issue or from time to time as several issues, and may mature or become payable in such amounts and at such time or times not exceeding thirty (30) years from their date, all as may be provided by resolution or resolutions of the authority.

(4) Bonds of the authority issued pursuant to Sections 57-67-19 through 57-67-31 may be sold at a price not less than ninety-eight percent (98%) of par value plus accrued interest, at public or private sale, at such times as may be determined by the authority to be in the public interest, and the authority may pay all expenses, premiums, fees and commissions which it may deem necessary and advantageous in connection with the issuance and sale thereof.

(5) Whenever any bonds issued pursuant to Sections 57-67-19 through 57-67-31 shall have been signed by the officer(s) designated by the resolution of the authority to sign the bonds, who were in office at the time of such signing but who may have ceased to be such officer(s) prior to the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the manual or facsimile signatures of such officer(s) upon such bonds shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially executing such bonds had remained in office until the delivery of the same to the purchaser or had been in office on the date such bonds may bear.

(6) Proceeds from the sale of bonds issued pursuant to Sections 57-67-19 through 57-67-31 may be applied for the purposes of (a) defraying all or any designated portion of the costs incurred with respect to the project or any facility related to the project, or any educational, cultural, housing or recreational facility offered as an enhancement to secure the siting of the project in the state, including costs of design and engineering, all costs incurred to

provide land, easements, rights-of-way and relocation costs with respect to the project and with respect to any such facility; (b) providing for the payment of interest on the bonds; (c) providing debt service reserves; and (d) paying underwriters discount, original issue discount, accountants' fees, engineers' fees, attorney's fees, rating agency fees and other fees and expenses in connection with the issuance of the bonds and other necessary and proper expenses of the authority in connection with the project or any such facility. Proceeds from the sale of bonds issued pursuant to Sections 57-67-19 through 57-67-31 may be invested, subject to federal limitations, pending their use, in such securities as may be specified in the resolution authorizing the issuance of the bonds or the trust indenture securing them, and the earning on such investment applied as provided in such resolution or trust indenture.

(7) Neither the executive director of the authority nor any person executing the bonds shall be personally liable on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(8) In anticipation of the issuance of bonds under Sections 57-67-19 through 57-67-31, the authority is hereby authorized to negotiate and enter into any loan or credit agreement with any bank, trust company or other lending institution for the purpose of making any payments authorized under this chapter. All borrowings made under this provision shall be evidenced by notes of the authority which shall be issued from time to time, for such amounts not exceeding the amount of bonds authorized herein, in such form and in such denomination and subject to such terms and conditions of sale and issuance, prepayment or redemption and maturity, rate or rates of interest, and time of payment of interest as the authority shall agree to in such agreement. Such notes may also be issued for the purpose of refunding previously issued notes; provided that no notes shall mature more than three (3) years following the date of issuance of the first note hereunder and provided further, that all outstanding notes shall be retired from the proceeds of the first issuance of bonds hereunder. The authority is authorized to provide for the compensation of any purchaser of the notes by payment of a fixed fee or commission and for all other costs and expenses of issuance and service, including paying agent costs. Such costs and expenses may be paid from the proceeds of the notes.

SOURCES: Laws, 1987 Ex Sess, ch. 24, § 10, eff from and after passage (approved August 29, 1987).

Cross References — Validation of bonds issued by authority, see § 57-67-23. Responsibility for payments on bonds issued by authority, see § 57-67-25.

§ 57-67-21. Power of authority to issue refunding bonds.

The authority may issue refunding bonds for the purpose of paying any of its bonds at or prior to maturity or upon acceleration or redemption. Refunding bonds may be issued at such time prior to the maturity or redemption of the refunded bonds as the authority deems to be in the public interest, without notice and without an election on the question of the issuance thereof. The refunding bonds may be issued in sufficient amounts to pay or provide the principal of the bonds being refunded, together with any redemption premium thereon, any interest accrued or to accrue to the date of payment of such bonds, the expenses of issue of the refunding bonds, the expenses of redeeming the bonds being refunded, and such reserves for debt service or other capital or current expenses from the proceeds of such refunding bonds as may be required by the resolution, trust indenture or other security instruments. The issue of refunding bonds, the maturities and other details thereof, the security therefor, the rights of the holders and the rights, duties and obligations of the authority in respect of the same shall be governed by the provisions of this chapter relating to the issue of bonds other than refunding bonds insofar as the same may be applicable. Any such refunding may be effected, whether the obligations to be refunded shall have then matured or shall thereafter mature, either by the exchange of the refunding bonds for the obligations to be refunded thereby with the consent of the holders of the obligations so to be refunded, or by sale of the refunding bonds and the application of the proceeds thereof to the payment of the obligations proposed to be refunded thereby, and regardless of whether the obligations proposed to be refunded shall be payable on the same date or different dates or shall be due serially or otherwise.

SOURCES: Laws, 1987 Ex Sess, ch. 24, § 11, eff from and after passage (approved August 29, 1987).

Cross References — General power of authority to issue bonds, see § 57-67-19.
Validation of bonds issued by authority, see § 57-67-23.
Responsibility for payments on bonds issued by authority, see § 57-67-25.

§ 57-67-23. Validation of bonds.

All bonds (other than state bonds, refunding bonds, interim notes and certificates of indebtedness, which may be validated) issued pursuant to Sections 57-67-19 through 57-67-31 shall be validated as provided in Sections 31-13-1 through 31-13-11, Mississippi Code of 1972; provided, however, that notice of such validation proceedings shall be addressed to the taxpayers of all public agencies and political subdivisions:

(a) Which have contracted with the authority pursuant to Section 57-67-17; and

(b) Whose contracts and the payments to be made thereunder constitute security for the bonds of the authority proposed to be issued, and such notice shall be published at least once in a newspaper or newspapers having a general circulation within the geographical boundaries of each public agency or political subdivision to whose taxpayers the notice is addressed. Such validation proceedings shall be instituted in the First Judicial District of the Chancery Court of Hinds County. The validity of the bonds so validated and of the contracts and payments to be made by the political subdivisions thereunder constituting security for the bonds shall be forever conclusive against the authority and the political subdivisions which are parties to said contracts; and the validity of said bonds and said contracts and the payments to be made thereunder shall never be called in question in any court in this state.

SOURCES: Laws, 1987 Ex Sess, ch. 24, § 12, eff from and after passage (approved August 29, 1987).

Cross References — Validation of bonds generally, see §§ 31-13-1 et seq.
General power of authority to issue bonds, see § 57-67-19.
Responsibility for payments on bonds issued by authority, see § 57-67-25.

§ 57-67-25. Liability for payment of bonds.

Bonds issued pursuant to Sections 57-67-19 through 57-67-31 shall not be deemed to constitute a debt, liability or obligation of the contracting public agency or political subdivisions, within the meaning of any constitutional or statutory limitation, nor shall such bonds constitute a pledge of the full faith and credit of the state or the contracting public agency or political subdivisions, but shall be payable solely from the revenues, moneys and funds of the authority pledged therefor. Each bond shall contain on the face thereof a statement to the effect that the authority shall not be obligated to pay the same nor the interest thereon except from those sources above mentioned and pledged therefor and that neither the full faith and credit nor the taxing power of the state or any political subdivision thereof is pledged to the payment of the principal of or the interest on such bond.

SOURCES: Laws, 1987 Ex Sess, ch. 24, § 13, eff from and after passage (approved August 29, 1987).

Cross References — General power of the authority to issue bonds, see § 57-67-19.
Validation of bonds issued by authority, see § 57-67-23.

§ 57-67-27. Security for payment of bonds.

The authority may, in any authorizing resolution, trust indenture or other security instrument relating to its bonds, provide for the appointment of a trustee who shall have such powers as are provided therein to represent the registered owners of any issue of bonds in the enforcement or protection of their rights under any such resolution, trust indenture or security instrument. The authority may also provide in such resolution, trust indenture or other security instrument that the trustee, or in the event that the trustee so appointed shall fail or decline to so protect and enforce such registered owners' rights then such percentage of registered owners as shall be set forth in, and subject to the provisions of, such resolution, trust indenture or other security interest, may petition the court of proper jurisdiction for the appointment of a receiver of the revenues which are pledged to the payment of the principal of and interest on the bonds of such registered owners. Such receiver may exercise any power as may be granted in any such resolution, trust indenture or security instrument to collect, enforce and receive all revenues derived from agreements with any public agency or political subdivisions entered pursuant to Section 57-67-17, and carry out the contracts and obligations of the authority in the same manner as the authority itself might do, all under the direction of such court.

SOURCES: Laws, 1987 Ex Sess, ch. 24, § 14, eff from and after passage (approved August 29, 1987).

Cross References — General power of authority to issue bonds, see § 57-67-19.
Validation of bonds issued by authority, see § 57-67-23.
Responsibility for payments on bonds issued by authority, see § 57-67-25.

§ 57-67-29. Specific powers of authority in connection with bonds.

The authority shall have power in connection with the issuance of bonds other that state bonds issued pursuant to this chapter to:

(a) Covenant as to the use of any or all of its property, real or personal.

(b) Redeem the bonds, to covenant for their redemption and to provide the terms and conditions thereof.

(c) Covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds shall become or may be declared due before maturity, as to the terms and conditions upon which such declaration and its consequences may be waived and as to the consequences of default and the remedies of the registered owners of the bonds.

(d) Covenant as to the mortgage or pledge of or the grant of a security interest in all or any part of the revenues derived from any revenue-producing contract or contracts made by the authority with any public agency or political subdivision to secure the payment of bonds, subject to such agreements with the registered owners of bonds as may then exist.

(e) Covenant as to the custody, collection, securing, investment and payment of any revenues to which the authority may have any rights or interest, which are pledged as security for the bonds.

(f) Covenant as to the purposes to which the proceeds from the sale of any bonds then or thereafter to be issued may be applied, and the pledge of such proceeds to secure the payment of the bonds.

(g) Covenant as to the limitations on the issuance of any additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding bonds.

(h) Covenant as to the rank or priority of any bonds with respect to any lien or security.

(i) Covenant as to the procedure by which the terms of any contract with or for the benefit of the registered owners of bonds may be amended or abrogated, the amount of bonds the registered owners of which must consent thereto, and the manner in which such consent may be given.

(j) Covenant as to the custody of any of its properties or investments, the safekeeping thereof, the insurance to be carried thereon, and the use and disposition of insurance proceeds.

(k) Covenant as to the vesting in a trustee or trustees, within or outside the state, of such properties, rights, powers and duties in trust as the authority may determine.

(*l*) Covenant as to the appointing and providing for the duties and obligations of a paying agent or paying agents, a bond registrar and transfer agent or other fiduciaries, all of which may be domiciled within or outside the state.

(m) Make all other covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or in the absolute discretion of the authority tend to make the bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein; it being the intention hereof to give the authority power to do all things in the issuance of bonds and in the provisions for security thereof which are not inconsistent with the Constitution of the state.

(n) Execute all instruments necessary or convenient in the exercise of the powers herein granted or in the performance of covenants or duties, which may contain such covenants and provisions, as any purchaser of the bonds of the authority may reasonably require.

SOURCES: Laws, 1987 Ex Sess, ch. 24, § 15, eff from and after passage (approved August 29, 1987).

Cross References — General power of authority to issue bonds, see § 57-67-19.
Validation of bonds issued by authority, see § 57-67-23.
Responsibility for payments on bonds issued by authority, see § 57-67-25.

§ 57-67-31. Obligations of state in connection with bonds.

The state hereby covenants with the registered owners of bonds of the authority issued pursuant to this chapter, that so long as the bonds are outstanding and unpaid the state will not materially limit or materially alter the rights and powers of the authority under this chapter to conduct the activities referred to herein in any way pertinent to the interests of the bondholders including without limitation the authority's right to collect revenues and to fulfill the terms of any covenants made with the registered owners of the bonds, or in any other way materially impair the rights and remedies of the registered owners of the bonds, unless provision for full payment of such bonds, by escrow or otherwise, has been made pursuant to the terms of the bonds or the resolution, trust indenture or security instrument securing the bonds.

SOURCES: Laws, 1987 Ex Sess, ch. 24, § 16, eff from and after passage (approved August 29, 1987).

Cross References — General power of authority to issue bonds, see § 57-67-19.
Validation of bonds issued by authority, see § 57-67-23.
Responsibility for payments on bonds issued by authority, see § 57-67-25.

§ 57-67-33. Taxation of bonds.

Any bonds or state bonds issued under the provisions of this chapter, a transaction relating to the sale or securing of such bonds, their transfer and the income therefrom shall at all times be free from taxation by the state or any local unit or political subdivision or other instrumentality of the state, excepting inheritance and gift taxes.

SOURCES: Laws, 1987 Ex Sess, ch. 24, § 17, eff from and after passage (approved August 29, 1987).

§ 57-67-35. Bonds as legal investments and securities.

All bonds or state bonds issued pursuant to this chapter shall be legal investments for trustees, other fiduciaries, savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi; and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of the state and all municipalities and other political subdivisions thereof for the purpose of securing the deposit of public funds.

SOURCES: Laws, 1987 Ex Sess, ch. 24, § 18, eff from and after passage (approved August 29, 1987).

§ 57-67-37. Minority small business concerns.

(1)(a) The authority shall expend not less than fifteen percent (15%) of the total amounts expended by the authority on planning, construction, training, research, development, testing, evaluation, personal services, procurement, and for the operation and maintenance of any facilities or activities controlled by such authority, with minority small business concerns owned and controlled by socially and economically disadvantaged individuals. For the purpose of determining the total amounts expended with such minority small business concerns, credit shall be given for that portion of any prime contract entered into with the authority which inures to the benefit of such minority small business concern as a subcontractor thereunder.

(b) For the purposes of this section, the term "socially and economically disadvantaged individuals" shall have the meaning ascribed to such term under Section 8(d) of the Small Business Act (15 U.S.C.S., Section 637(d)) and relevant subcontracting regulations promulgated pursuant thereto.

(c) For the purposes of this section, the term "minority small business concern" means any small business concern:

(i) Which is at least fifty-one percent (51%) owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned businesses, at least fifty-one percent (51%) of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) Whose management and daily business operations are controlled by one or more of such individuals.

(d) For the purposes of this section, the term "small business concern" shall mean "small business" as the latter term is defined in Section 57-10-155, Mississippi Code of 1972.

(2) In order to comply in a timely manner with its minority small business participation mandate, the authority shall set an annual goal to expend not less than fifteen percent (15%) of its aggregate yearly expenditures with minority small business concerns.

(3) The authority shall:

(a) Monitor the minority small business concerns assistance programs prescribed in this section.

(b) Review and determine the business capabilities of minority small business concerns.

(c) Establish standards for a certification procedure for minority small business concerns seeking to do business with the authority.

(d) Provide technical assistance services to minority small business concerns. Such technical assistance shall include but not be limited to:

(i) Research;

(ii) Assistance in obtaining bonds;

(iii) Bid preparation;

(iv) Certification of business concerns;

(v) Marketing assistance; and

(vi) Joint venture and capital development.

(e) Develop alternative bidding and contracting procedures for minority small business concerns in conjunction with the State Fiscal Management Board and the Governor's Office of General Services.

(f) Utilize such alternative bidding and contracting procedures in lieu of those prescribed in Title 31, Chapters 5 and 7, Mississippi Code of 1972, when contracting with minority small business concerns that have qualified to bid for contracts and have satisfied any other disclosure provisions required by the authority.

(g) Be authorized to accept in lieu of any bond otherwise required from minority small business concerns or small business concerns contracting with the authority, in an amount equal to one hundred percent (100%) of the total cost of the contracted project, any combination of the following:

(i) Cash;

(ii) Certificates of deposit from any bank or banking corporation insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;

(iii) Federal treasury bills;

(iv) Letters of credit issued by a bank as that term is defined in Section 81-3-1, Mississippi Code of 1972; or

(v) Surety bonds issued by an insurance company licensed and qualified to do business in the State of Mississippi.

(h) Be authorized, in its discretion, to waive any bond required on any project which does not exceed a total dollar value of One Hundred Thousand Dollars ($100,000.00). A retainage shall be held by the authority in an amount not to exceed fifteen percent (15%) from each draw according to American Institute of Architects (AIA) standards. Upon satisfactory completion of such project, ten percent (10%) of the total cost of the contract shall be held in an interest-bearing escrow account for one (1) year. Funds deposited in such escrow account shall stand as a surety for any defects in workmanship or materials detected within twelve (12) months of completion. The balance of all monies so escrowed including accrued interest shall be paid to the contractor at the end of such twelve-month period.

(i) Be empowered to provide an incentive of bimonthly payments to any prime contractors utilizing minority small business concerns as subcontractors on twenty-five percent (25%) or more of the total dollar value of any single project or contract.

(j) Submit an annual report on its progress concerning minority small business contracts to the Legislature by January 30 of each year.

(k) Take all steps necessary to implement the provisions of this section.

(4) The Governor shall create an Office of Minority Small Business Development within the authority. The Office of Minority Small Business Development shall be the primary provider of technical assistance to minority small business concerns. The authority may, in its discretion, contract with minority small business concerns and small business concerns to provide technical assistance under the provisions of this section. The authority may annually expend not more than one percent (1%) of the total dollar amount prescribed in subsection (2) of this section for the purpose of providing technical assistance. All funds expended for technical assistance shall be administrative funds or any funds available other than the amounts prescribed in subsection (1)(a) of this section.

(5) The authority shall assist in facilitating the entry of minorities into the subject areas of engineering, high-energy physics, mathematics and computer science. An historically Black public institution of higher learning may receive funding from the authority for the enhancement of curriculum in any of these areas for minority student development on the undergraduate and graduate levels.

SOURCES: Laws, 1987 Ex Sess, ch. 24, § 21, eff from and after passage (approved August 29, 1987).

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Section 27-104-1 provides that the term "Fiscal Management Board" shall mean the "Department of Finance and Administration".

Cross References — Comprehensive Small Business Act of 1983, see §§ 57-10-151 et seq.

Mississippi Minority Business Enterprose Act, see §§ 37-69-1 et seq.

Federal Aspects — Small Business Aid, see 15 U.S.C.S. §§ 631 et seq.

§ 57-67-39. Construction of chapter.

The provisions of this chapter are cumulative of other statutes now or hereafter enacted relating to the authority, and the authority may exercise all presently held powers in the furtherance of this chapter. If any section, paragraph, sentence, clause, phrase or any part of the provisions of this chapter is declared to be unconstitutional or void, or for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses and phrases shall in no manner be affected thereby but shall remain in full force and effect.

SOURCES: Laws, 1987 Ex Sess, ch. 24, § 22, eff from and after passage (approved August 29, 1987).

CHAPTER 69

Mississippi Minority Business Enterprise Act

Sec.
57-69-1. Short title.
57-69-3. Definitions.
57-69-5. Office of Minority Business Enterprises created; executive director; general powers and duties of office.
57-69-7. Certification of minority business enterprises.
57-69-9. Annual reports on participation in public works and procurement contracts.

§ 57-69-1. Short title.

This chapter shall be known and may be cited as the "Mississippi Minority Business Enterprise Act."

SOURCES: Laws, 1988, ch. 518, § 96, eff from and after July 1, 1988.

§ 57-69-3. Definitions.

Unless the context requires otherwise, the following words shall have the following meanings for the purposes of this chapter:

(a) "Class of contract basis" means an entire group of contracts having a common characteristic.

(b) "Commercially useful function" means being responsible for execution of a contract or a distinct element of the work under a contract by actually performing, managing, and supervising the work involved.

(c) "Contract" means all types of state agreements, regardless of what they may be called, for the purchase of supplies or services or for construction or major repairs. "Contract" includes the following:

(i) Awards and notices of award.

(ii) Contracts of a fixed price, cost, cost-plus-a-fixed-fee, or incentive types.

(iii) Contracts providing for the issuance of job or task orders.

(iv) Leases.

(v) Letter contracts.

(vi) Purchase orders.

(vii) Any supplemental agreements with respect to (i) through (vi) of this subparagraph.

(d) "Contracting base" means the dollar amount of contracts for public works and procurement of goods and services awarded by a state agency or a state educational institution during a fiscal year.

(e) "Contract by contract basis" means a single contract within a specific class of contracts.

(f) "Contractor" means a party who enters into a contract to provide a state or educational institution with goods or services, including construction, or a subcontractor or sublessee of such a party.

(g) "Director" means the Executive Director of the Office of Minority Business Enterprises of the Mississippi Development Authority.

(h) "Educational institutions" means the state universities, vocational institutions, and any other state-supported educational institutions.

(i) "Joint venture" means an association of two (2) or more persons or businesses to carry out a single business enterprise for profit for which purpose they combine their property, capital, efforts, skills, and knowledge, and in which they exercise control and share in profits and losses in proportion to their contribution to the enterprise.

(j) "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:

(i) Black: having origins in any of the black racial groups of Africa.

(ii) Hispanic: of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin regardless of race.

(iii) Asian American: having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

(iv) American Indian or Alaskan Native: having origins in any of the original peoples of North America.

(v) Female.

(k) "Minority business enterprise" or "minority owned business" means a socially and economically disadvantaged small business concern organized for profit performing a commercially useful function which is owned and controlled by one or more individuals or minority business enterprises certified by the office, at least seventy-five percent (75%) of whom are resident citizens of the State of Mississippi. For purposes of this paragraph, the term "socially and economically disadvantaged small business concern" shall have the meaning ascribed to such term under the Small Business Act (15 USCS, Section 637(a)). Owned and controlled means a business in which one or more minorities or minority business enterprises certified by the office own at least fifty-one percent (51%) or in the case of a corporation at least fifty-one percent (51%) of the voting stock and control at least fifty-one percent (51%) of the management and daily business operations of the business.

(*l*) "Minority business enterprise supplier" means a socially and economically disadvantaged small business concern which is owned and controlled by one or more individuals, at least seventy-five percent (75%) of whom are resident citizens of the State of Mississippi. For purposes of this paragraph, the term "socially and economically disadvantaged small business concern" shall have the meaning ascribed to such term under the Small Business Act (15 USCS, Section 637(a)) except that the net worth of the business may not be greater than Seven Hundred Fifty Thousand Dollars ($750,000.00). Owned and controlled means a business in which one or more minorities own at least fifty-one percent (51%) or in the case of a corporation at least fifty-one percent (51%) of the voting stock and control at least fifty-one percent (51%) of the management and daily business operations of the business.

(m) "Office" means the Office of Minority Business Enterprises of the Mississippi Development Authority.

(n) "Procurement" means the purchase, lease, or rental of any goods or services.

(o) "Commodities" means the various items described in Section 31-7-1(e).

(p) "Professional services" means all personal service contracts utilized by state agencies and institutions.

(q) "Small business" means a small business as defined by the Small Business Administration of the United States government which for purposes of size eligibility or other factors meets the applicable criteria set forth in Part 121 of Title 13 of the Code of Federal Regulations as amended, and which has its principal place of business in Mississippi.

(r) "State agency" includes the State of Mississippi and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions. "State agency" does not include the Mississippi Department of Transportation nor the judicial or legislative branches of government except to the extent that procurement or public works for these branches is performed by a state agency.

SOURCES: Laws, 1988, ch. 518, § 97; Laws, 2002, ch. 442, § 2; Laws, 2006, ch. 580, § 1, eff from and after July 1, 2006.

Editor's Note — Section 57-1-54 provides that the term "Mississippi Department of Economic Development" shall mean the "Department of Economic and Community Development".

Federal Aspects — Small Business Act, see 15 USCS §§ 631 et seq.

§ 57-69-5. Office of Minority Business Enterprises created; executive director; general powers and duties of office.

(1) There is hereby created the Office of Minority Business Enterprises of the Mississippi Development Authority under the Mississippi Development Authority. The Executive Director of the Mississippi Development Authority shall appoint an executive director for the office. The executive director may employ a staff subject to approval of the Executive Director of the Mississippi Development Authority as necessary to carry out the purposes of this office.

(2) The office shall perform the following:

(a) Develop, plan and implement programs to provide an opportunity for participation by qualified minority owned businesses in public works and the process by which goods and services are procured by state agencies and educational institutions from the private sector;

(b) Develop a comprehensive plan encouraging that qualified minority owned businesses are provided an opportunity to participate in public contracts for public works and commodities and services;

(c) Identify barriers to equal participation by qualified minority owned businesses in all state agency and educational institution contracts;

(d) Develop and maintain a central minority business enterprise certification list for all state agencies and educational institutions;

(e) Adopt rules for the implementation of this chapter;

(f) Develop and maintain a central minority business enterprise certification program;

(g) Develop and maintain a central minority business enterprise supplier certification program;

(h) Submit an annual report to the Governor and the Legislature outlining the progress and economic impact on the public and private sectors of implementing this chapter;

(i) Increase efforts to inform minority businesses of state government procurement procedures and policies;

(j) Serve as the principal advocate in the state on behalf of minority business enterprises and minority business enterprise suppliers and provide advice in the consideration of administrative requirements and legislation that affect minority business enterprises and minority business enterprise suppliers;

(k) Evaluate the effectiveness of efforts of state agencies and other entities to assist minority business enterprises and minority business enterprise suppliers and make appropriate recommendations to assist the development and strengthening of minority business enterprises and minority business enterprise suppliers;

(*l*) Determine the availability of financial and other resources to minority business enterprises and minority business enterprise suppliers and recommend methods for:

(i) Increasing the availability of equity capital and other forms of financial assistance to minority business enterprises and minority business enterprise suppliers;

(ii) Generating markets for the goods and services of minority business enterprises and minority business enterprise suppliers;

(iii) Providing more effective education, training and management and technical assistance to minority business enterprises and minority business enterprise suppliers; and

(iv) Providing assistance to minority business enterprises and minority business enterprise suppliers in complying with federal, state and local laws;

(m) Serve as a focal point for receiving complaints and suggestions concerning state government policies and activities that affect minority business enterprises and minority business enterprise suppliers;

(n) Develop and advocate proposals for changes in state policies and activities that adversely affect minority business enterprises and minority business enterprise suppliers;

(o) Provide to legislative committees and state agencies information on the effects of proposed policies or actions that affect minority business enterprises and minority business enterprise suppliers;

(p) Enlist the assistance of public and private agencies, businesses and other organizations in disseminating information about state programs and services that benefit minority business enterprises and minority business enterprise suppliers and information regarding means by which minority business enterprises and minority business enterprise suppliers can use those programs and services;

(q) Identify sources of financial assistance for minority business enterprises, match minority business enterprises and minority business enterprise suppliers with sources of financial assistance, and assist minority business enterprises and minority business enterprise suppliers with the preparation of applications for loans from governmental or private sources;

(r) Sponsor meetings, to the extent practicable in cooperation with public and private educational institutions, to provide training and disseminate information beneficial to minority business enterprises and minority business enterprise suppliers;

(s) Assist minority business enterprises and minority business enterprise suppliers in their dealings with federal, state and local governmental agencies and provide information regarding governmental requirements affecting minority business enterprises and minority business enterprise suppliers;

(t) Develop and implement programs to encourage governmental agencies, public sector business associations and other organizations to provide useful services to minority business enterprises and minority business enterprise suppliers;

(u) Use available resources within the state, such as minority business enterprise development centers, educational institutions and nonprofit associations, to coordinate the provision of management and technical assistance to minority business enterprises and minority business enterprise suppliers in a systematic manner;

(v) Publish newsletters, brochures and other documents containing information useful to minority business enterprises and minority business enterprise suppliers;

(w) Identify successful minority business enterprise assistance programs provided by other states and determine the feasibility of adapting those programs for implementation in Mississippi;

(x) Establish an outreach program to make the existence of the office known to minority business enterprises, minority business enterprise suppliers and potential clients throughout the state; and

(y) Identify potential business opportunities for minority business enterprises and minority business enterprise suppliers and develop programs to maximize those opportunities.

SOURCES: Laws, 1988, ch. 518, § 98; Laws, 2002, ch. 442, § 1; Laws, 2006, ch. 580, § 2, eff from and after July 1, 2006.

§ 57-69-7. Certification of minority business enterprises.

(1) The Executive Director of the Mississippi Development Authority shall certify minority business enterprises that qualify as such. The director shall establish criteria by which minority business enterprises may qualify for certification.

(2) The Executive Director of the Mississippi Development Authority shall certify minority business enterprises suppliers that qualify as such. The director shall establish criteria by which minority business enterprise suppliers may qualify for certification.

SOURCES: Laws, 1988, ch. 518, § 99; Laws, 2002, ch. 442, § 3; Laws, 2006, ch. 580, § 3, eff from and after July 1, 2006.

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

§ 57-69-9. Annual reports on participation in public works and procurement contracts.

Each state agency and educational institution shall report the participation of minority business enterprises in the public works and procurement contracts executed by the agency or institution. The reports shall be made on a an annual basis.

SOURCES: Laws, 1988, ch. 518, § 100, eff from and after July 1, 1988.

CHAPTER 71

Mississippi Small Enterprise Development Finance Act

Sec.
57-71-1. Short title.
57-71-3. Purpose.
57-71-5. Definitions.
57-71-7. Small enterprise development finance program.
57-71-9. Application for loan.
57-71-11. Terms and conditions of loans.
57-71-13. Lending guidelines, rules and regulations; identifying eligible projects; requirement of job creation; purchases exempt from taxation.
57-71-15. Authorization to hire attorneys, accountants, and others to review and close loans.
57-71-17. Default on loan; penalty.
57-71-19. Certification of nondiscrimination as condition of loan.
57-71-21. Mississippi Small Enterprise Development Finance Fund; Mississippi Small Enterprise Development Finance Sinking Fund.
57-71-23. Redemption of and payment of interest on bonds; cancellation of bonds; report to state on amount of annual payments due on bonds; rate of interest on loans.
57-71-25. Authorization for seller to borrow funds to carry out purposes of act; issuance of bonds.
57-71-27. Bond offerings; temporary bonds; deposit of proceeds of sale; registration of bonds; cost and expenses of bond offerings.
57-71-29. Temporary borrowings in anticipation of bond offering; replacement notes.
57-71-31. Disposition of proceeds realized from sale of bonds and notes.
57-71-33. State Attorney General to represent seller in issuing, selling and validating bonds or notes; seller authorized to use proceeds to pay administrative, legal and other expenses.
57-71-35. Term "this act" defined.

§ 57-71-1. Short title.

This act shall be known and may be cited as the Mississippi Small Enterprise Development Finance Act.

SOURCES: Laws, 1988, ch. 580, § 1, eff from and after passage (approved May 21, 1988).

§ 57-71-3. Purpose.

It is the purpose of this act to promote business and economic development in the State of Mississippi through job producing programs and by providing loans to the Certified Development Company of Mississippi, Inc., as defined in this act; to assist in securing investment in small communities by private companies locating or expanding in the state; and to authorize the issuance of state bonds or notes for funding such programs.

SOURCES: Laws, 1988, ch. 580, § 2, eff from and after passage (approved May 21, 1988).

Editor's Note — Section 57-10-167 provides that the Certified Development Company of Mississippi, Inc. shall be known as the Mississippi Business Finance Corporation.

RESEARCH REFERENCES

ALR. Adverse impact upon existing business as factor affecting validity and substantive requisites of issuance, by state or local governmental agencies, of economic development bonds in support of private business enterprise. 39 A.L.R.4th 1096.

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

§ 57-71-5. Definitions.

The following words and phrases when used in this act shall have the meaning given to them in this section unless the context clearly indicates otherwise:

(a) "MBFC" or "company" means the Mississippi Business Finance Corporation.

(b) "Private company" means any agricultural, aquacultural, horticultural, industrial, manufacturing or research and development enterprise or enterprises, or the lessor thereof, or any commercial enterprise approved by the Mississippi Business Finance Corporation; however, the term "private company" shall not include any business, corporation or entity having a gaming license issued under Section 75-76-1 et seq.

(c) "Qualified financial institution" means any commercial bank or savings and loan institution approved by the Mississippi Business Finance Corporation to provide letters of credit under this act.

(d) "Letter of credit" means a letter of credit obligation from a qualified financial institution approved by the Mississippi Business Finance Corporation.

(e) "Planning and development districts" means the organized planning and development districts in Mississippi.

(f) "Director" means the Executive Director of the Mississippi Business Finance Corporation.

(g) "Seller" means the State Bond Commission.

SOURCES: Laws, 1988, ch. 580, § 3; Laws, 1992, ch. 548 § 7; Laws, 2007, ch. 458, § 1, eff from and after passage (approved Mar. 26, 2007.)

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.
Mississippi Business Finance Corporation created, see § 57-10-167.

§ 57-71-7. Small enterprise development finance program.

There is hereby established, under the direction of the Certified Development Company of Mississippi, Inc., a program to be known as the Mississippi Small Enterprise Development Finance Program for the purpose of making loans to qualified private companies in order to provide financing to small businesses which will increase employment and investment in small communities.

SOURCES: Laws, 1988, ch. 580, § 4, eff from and after passage (approved May 21, 1988).

Editor's Note — Section 57-10-167 provides that the Certified Development Company of Mississippi, Inc. shall be known as the Mississippi Business Finance Corporation.

§ 57-71-9. Application for loan.

Any private company desiring to borrow from the program shall make application to the company. The company shall define and publish criteria for eligibility for the program and timetable for review.

All loan applications shall identify a qualified financial institution which will issue a letter of credit to the Certified Development Company guaranteeing the loan made pursuant to this act. Such letter of credit will be in a form satisfactory to the Certified Development Company.

SOURCES: Laws, 1988, ch. 580, § 5, eff from and after passage (approved May 21, 1988).

Editor's Note — Section 57-10-167 provides that the Certified Development Company of Mississippi, Inc. shall be known as the Mississippi Business Finance Corporation.

Cross References — Loans for agribusinesses and small business concerns, § 69-2-13.

RESEARCH REFERENCES

ALR. Adverse impact upon existing business as factor affecting validity and substantive requisites of issuance, by state or local governmental agencies, of economic development bonds in support of private business enterprise. 39 A.L.R.4th 1096.

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

§ 57-71-11. Terms and conditions of loans.

(1) No loan made under the provisions of this act shall be in an amount exceeding Four Million Dollars ($4,000,000.00) principal.

(2) The maximum loan term shall not exceed twenty (20) years.

(3) All loans made pursuant to this act shall be guaranteed by a letter of credit in a form acceptable to the Mississippi Business Finance Corporation from a qualified financial institution. A letter of credit may be replaced by another letter of credit from a qualified financial institution if the letter is in a form acceptable to the Mississippi Business Finance Corporation. The cost of the letter of credit shall not exceed two percent (2%) per annum of the loan. If a letter of credit, upon expiration, is not renewed by the financial institution or otherwise replaced, the company shall draw upon the letter of credit for the

payment of the principal of and accrued interest on the bonds, including any penalties, premium on bonds or other costs incident to the loan.

(4) No more than Four Million Dollars ($4,000,000.00) in loans may be outstanding in the aggregate to any one (1) borrower, either directly or indirectly, at any one time.

(5) The interest rate on such loans shall not be less than the net interest rate on the bonds or notes issued pursuant to this act to finance the loan being repaid, plus company servicing fees.

(6) The total amount of a loan secured by real and/or personal property, including any previous indebtedness incurred against real and/or personal property offered as security for such loan shall not exceed ninety percent (90%) of the market value thereof as determined by an appraisal made by the lender. In determining the amount of indebtedness to be incurred against any real or personal property securing such a loan, the lender may consider the enhanced value of the real property and any other additional capital assets accruing to the borrower through loans provided under this act.

(7) No loan shall be made under this act to finance any existing debt.

SOURCES: Laws, 1988, ch. 580, § 6; Laws, 1989, ch. 524, § 25; Laws, 1991, ch. 584, § 1; Laws, 2003, ch. 378, § 1, eff from and after passage (approved Mar. 13, 2003.)

Editor's Note — Laws of 1989, ch. 524, § 36, provides as follows:

"SECTION 36. The repeal or amendment of this act shall not reduce the terms of any tax reduction, special tax incentive or financial assistance agreed upon pursuant to official action by the Department of Economic Development, the State Tax Commission or other appropriate agency of the state or political subdivision thereof prior to the effective date of such repeal or amendment."

Cross References — Application of this section to the rate of interest charged on any loan made from the small enterprise development finance fund, see § 57-71-23.

Application of this section to loans made pursuant to the emerging crops fund, see § 69-2-13.

RESEARCH REFERENCES

ALR. Adverse impact upon existing business as factor affecting validity and substantive requisites of issuance, by state or local governmental agencies, of economic development bonds in support of private business enterprise. 39 A.L.R.4th 1096.

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102, 148 et seq.

§ 57-71-13. Lending guidelines, rules and regulations; identifying eligible projects; requirement of job creation; purchases exempt from taxation.

The Mississippi Business Finance Corporation shall promulgate lending guidelines, rules and regulations as may be necessary to carry out the provisions of this act.

The Mississippi Business Finance Corporation may work closely with the planning and development districts in identifying eligible projects and making the program available in all areas of the state.

As part of the lending criteria, the Mississippi Business Finance Corporation must receive a commitment that the proposed project will create a minimum of ten (10) net new full-time equivalent jobs.

Notwithstanding the provisions of Section 27-65-101(1), Mississippi Code of 1972, and other applicable laws, all purchases required to establish any project and financed by proceeds from bonds issued under this act shall be exempt from all taxation in the State of Mississippi except the contractors' tax imposed by Sections 27-65-21 and 27-65-24(1)(b).

SOURCES: Laws, 1988, ch. 580, § 7; Laws, 1990 Ex Sess, ch. 71, § 20; Laws, 2010, ch. 449, § 9, eff from and after July 1, 2010.

Editor's Note — Section 57-10-167 provides that the Certified Development Company of Mississippi, Inc. shall be known as the Mississippi Business Finance Corporation.

Cross References — Applications for loans for agribusinesses and small business concerns, see § 69-2-13.

RESEARCH REFERENCES

ALR. Adverse impact upon existing business as factor affecting validity and substantive requisites of issuance, by state or local governmental agencies, of economic development bonds in support of private business enterprise. 39 A.L.R.4th 1096.

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 101, 102.

§ 57-71-15. Authorization to hire attorneys, accountants, and others to review and close loans.

The Certified Development Company of Mississippi, Inc., is hereby authorized to engage legal services, financial advisors, appraisers and consultants if needed to review and close loans made pursuant to this act. The costs of such professionals shall be paid by the borrower or from loan proceeds as determined and approved by the company.

SOURCES: Laws, 1988, ch. 580, § 8; Laws, 1992, ch. 548 § 8, eff from and after passage (approved May 14, 1992).

Editor's Note — Section 57-10-167 provides that the Certified Development Company of Mississippi, Inc. shall be known as the Mississippi Business Finance Corporation.

§ 57-71-17. Default on loan; penalty.

In the event of a default, the Certified Development Company shall call upon the letter of credit guaranteeing the principal amount of the loan plus interest due.

Failure to comply with lending criteria shall result in a penalty which the company may establish by regulation, and penalties shall not be treated as interest income for the purposes of Section 148 of the Internal Revenue Code of 1986.

SOURCES: Laws, 1988, ch. 580, § 9, eff from and after passage (approved May 21, 1988).

Editor's Note — Section 57-10-167 provides that the Certified Development Company of Mississippi, Inc. shall be known as the Mississippi Business Finance Corporation.

Federal Aspects — Section 148 of the Internal Revenue Code of 1986, see 26 USCS § 148.

§ 57-71-19. Certification of nondiscrimination as condition of loan.

No loan shall be made to a private company under this act unless the private company certifies to the Certified Development Company of Mississippi, Inc., in a form satisfactory to the company, that it will not discriminate against any employee or against any applicant for employment because of race, religion, color, national origin, sex or age.

SOURCES: Laws, 1988, ch. 580, § 10, eff from and after passage (approved May 21, 1988).

Editor's Note — Section 57-10-167 provides that the Certified Development Company of Mississippi, Inc. shall be known as the Mississippi Business Finance Corporation.

§ 57-71-21. Mississippi Small Enterprise Development Finance Fund; Mississippi Small Enterprise Development Finance Sinking Fund.

(1) There is hereby created a special fund in the State Treasury to be known as the Mississippi Small Enterprise Development Finance Fund out of which the Certified Development Company of Mississippi, Inc., shall provide loans authorized by this act. All monies received by the company to carry out the purposes of this act by issuance of bonds shall be deposited into the Mississippi Small Enterprise Development Finance Fund or funds. Expenditures authorized from the fund shall be paid by the State Treasurer upon warrants drawn on the Mississippi Small Enterprise Development Finance Fund, and the State Fiscal Management Board shall issue warrants upon requisitions signed by the director.

(2) Any monies repaid to the state from loans funded through the Mississippi Small Enterprise Development Finance Fund shall be deposited into the Mississippi Small Enterprise Development Finance Sinking Fund, which is hereby created in the State Treasury.

SOURCES: Laws, 1988, ch. 580, § 11; Laws, 1992, ch. 548 § 9, eff from and after passage (approved May 14, 1992).

Editor's Note — Section 27-104-1 provides that the term "Fiscal Management Board" shall mean the "Department of Finance and Administration".

Section 57-10-167 provides that the Certified Development Company of Mississippi, Inc. shall be known as the Mississippi Business Finance Corporation.

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations §§ 313, 319, 321-324.

§ 57-71-23. Redemption of and payment of interest on bonds; cancellation of bonds; report to state on amount of annual payments due on bonds; rate of interest on loans.

(1) All bonds issued under the authority of this act shall be redeemed at maturity, together with all interest due, from time to time, on the bonds, and these principal and interest payments shall be paid from the Mississippi Small Enterprise Development Finance Sinking Fund. All monies paid into the Mississippi Small Enterprise Development Finance Sinking Fund not appropriated to pay accruing bonds and interest shall be invested by the State Treasurer in such securities as are provided by law for the investment of the sinking funds of the state.

(2) In the event that all or any part of the bonds and notes are purchased, they shall be canceled and returned to the loan and transfer agent as canceled and paid bonds and notes; and thereafter all payments of interest thereon shall cease and the canceled bonds, notes and coupons together with any other canceled bonds, notes and coupons shall be destroyed as promptly as possible after cancellation but not later than two (2) years after cancellation. A certificate evidencing the destruction of the canceled bonds, notes and coupons shall be provided by the loan and transfer agent to the seller.

(3) The State Treasurer shall determine and report to the State Fiscal Management Board and Legislative Budget Office by September 1 of each year the amount of money necessary for the payment of the principal of and interest on outstanding obligations for the following fiscal year and the times and amounts of the payments. It shall be the duty of the Governor to include in every executive budget submitted to the Legislature full information relating to the issuance of bonds and notes under the provisions of this act and the status of the Mississippi Small Enterprise Development Finance Sinking Fund of the state for the payment of the principal of and interest on the bonds and notes.

(4) Except as otherwise provided by law, the rate of interest on any loan made using funds from the Mississippi Small Enterprise Development Finance Fund shall be that rate as established by Section 57-71-11(5). Notwithstanding the provisions of any other law to the contrary, the interest rate charged shall not be set such that the aggregate of the interest, penalties and other

payments to the state on loans and other assistance made using funds from the Mississippi Small Enterprise Development Finance Fund will cause the bonds issued pursuant to this act to be deemed arbitrage bonds pursuant to Section 148 of the Internal Revenue Code of 1986 and the regulations promulgated thereunder. In the case of loans initially funded from the proceeds of notes and subsequently funded from renewal bonds and notes, the interest rate to be charged on the loans shall be established in accordance with Section 57-71-11(5) upon the sale of bonds or notes, as the case may be, for the loans.

SOURCES: Laws, 1988, ch. 580, § 12, eff from and after passage (approved May 21, 1988).

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation correcting a typographical error in (4). A period was added after the reference to "Section 57-71-11(5)." The Joint Committee ratified the correction at its May 16, 2002 meeting.

Editor's Note — Section 27-104-1 provides that the term "Fiscal Management Board" shall mean the "Department of Finance and Administration".

Section 57-10-167 provides that the Certified Development Company of Mississippi, Inc. shall be known as the Mississippi Business Finance Corporation.

Federal Aspects — Section 148 of the Internal Revenue Code of 1986, see 26 USCS § 148.

§ 57-71-25. Authorization for seller to borrow funds to carry out purposes of act; issuance of bonds.

(1) The seller is authorized to borrow, on the credit of the state, upon receipt of a resolution from the company requesting the same, money not exceeding the aggregate sum of One Hundred Forty Million Dollars ($140,000,000.00), outstanding at any one time, not including money borrowed to refund outstanding bonds, notes or replacement notes, as may be necessary to carry out the purposes of this act. The rate of interest on any such bonds or notes which are not subject to taxation shall not exceed the rates set forth in Section 75-17-101, Mississippi Code of 1972, for general obligation bonds.

(2) As evidence of indebtedness authorized in this chapter, general or limited obligation bonds of the state shall be issued from time to time to provide monies necessary to carry out the purposes of this chapter for such total amount, in such form, in such denominations, payable in such currencies (either domestic or foreign or both), and subject to such terms and conditions of issue, redemption and maturity, rate of interest and time of payment of interest as the seller directs, except that such bonds shall mature or otherwise be retired in annual installments beginning not more than five (5) years from date thereof and extending not more than twenty (20) years from date thereof.

(3) All bonds and notes issued under authority of this chapter shall be signed by the chairman of the seller, or by his facsimile signature, and the official seal of the seller shall be affixed thereto, attested by the secretary of the seller.

(4) All bonds and notes issued under authority of this chapter may be general or limited obligations of the state, and the full faith and credit of the

State of Mississippi as to general obligation bonds, or the revenue derived from projects assisted as to limited obligation bonds, are hereby pledged for the payment of the principal of and the interest on such bonds and notes.

(5) Such bonds and notes and the income therefrom shall be exempt from all taxation in the State of Mississippi.

(6) The bonds may be issued as coupon bonds or registered as to both principal and interest as the seller may determine. If interest coupons are attached, they shall contain the facsimile signature of the chairman and the secretary of the seller.

(7) As to bonds issued hereunder and designated as taxable bonds by the seller, any immunity of the state to taxation by the United States Government of interest on bonds or notes issued by the state is hereby waived.

SOURCES: Laws, 1988, ch. 580, § 13; Laws, 1990, ch. 570, § 12; Laws, 1992, ch. 548 § 10; Laws, 1993, ch. 548, § 7; Laws, 1994, ch. 560, § 2; Laws, 1996, ch. 553, § 4; Laws, 1998, ch. 465, § 1, eff from and after passage (approved March 25, 1998).

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations § 164 et seq.

§ 57-71-27. Bond offerings; temporary bonds; deposit of proceeds of sale; registration of bonds; cost and expenses of bond offerings.

(1) Whenever bonds are issued, they shall be offered for sale at not less than par value and accrued interest and shall be sold by the seller at public or private sale, from time to time, in such manner and at such price as may be determined by the seller to be most advantageous.

(2) Any portion of any bond issue so offered and not sold or subscribed for at public sale may be disposed of by private sale by the seller in such manner and at such prices not less than par and accrued interest, as the seller shall direct.

(3) When bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the seller or may be combined for sale as one (1) series with other general obligation bonds of the State of Mississippi.

(4) Until permanent bonds can be prepared, the seller may in its discretion issue, in lieu of permanent bonds, temporary bonds in such form and with such privileges as to registration and exchange for permanent bonds as may be determined by the seller.

(5) Pending their application to the purposes authorized, bond proceeds held or deposited by the State Treasurer may be invested or reinvested as are other funds in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or deposit of such funds shall be

paid into the State Treasury to the credit of the Mississippi Small Enterprise Development Finance Fund.

(6) The State Treasurer shall prepare the necessary registry book to be kept in the office of the duly authorized loan and transfer agent of the state for the registration of any bonds, at the request of owners thereof, according to the terms and conditions of issue directed by the seller.

(7) All costs and expenses in connection with the issue of and sale and registration of the bonds and notes in connection with this act may be paid from the proceeds of bonds and notes issued under this act.

(8) The seller may provide in the resolution authorizing the issuance of such bonds for the employment of one or more persons or firms to assist in the sale of the bonds; to enter into contracts with financial institutions located either within or without the State of Mississippi to act as registrars, paying agents, transfer agents or otherwise; for rating of the bonds; and to purchase insurance.

SOURCES: Laws, 1988, ch. 580, § 14, eff from and after passage (approved May 21, 1988).

RESEARCH REFERENCES

Am Jur. 64 Am. Jur. 2d, Public Securities and Obligations § 164 et seq.

§ 57-71-29. Temporary borrowings in anticipation of bond offering; replacement notes.

(1) Pending the issuance of bonds of the state as authorized under this act, the seller is hereby authorized in accordance with the provisions of this act and on the credit of the state, to make temporary borrowings not to exceed two (2) years in anticipation of the issue of bonds in order to provide funds in such amounts as may, from time to time, be deemed advisable prior to the issue of bonds. In order to provide for and in connection with such temporary borrowings, the seller is hereby authorized in the name and on behalf of the state to enter into any purchase, loan or credit agreement, or agreements, or other agreement or agreements with any financial institution or persons in the United States having power to enter into the same, which agreements may contain such provisions not inconsistent with the provisions of this act as may be authorized by the seller.

(2) All temporary borrowings made under this section shall be evidenced by notes of the state which shall be issued, from time to time, for such amounts not exceeding in the aggregate the applicable statutory and constitutional debt limitation, in such form and in such denominations and subject to terms and conditions of sale and issue, prepayment or redemption and maturity, rate or rates of interest and time of payment of interest as the seller shall authorize and direct and in accordance with this act. Such authorization and direction may provide for the subsequent issuance of replacement notes to refund, upon issuance thereof, such notes, and may specify such other terms and conditions

with respect to the notes and replacement notes thereby authorized for issuance as the seller may determine and direct.

(3) When the authorization and direction of the seller provide for the issuance of replacement notes, the seller is hereby authorized in the name and on behalf of the state to enter into agreements with any financial institutions or persons in the United States having the power to enter the same:

(a) To purchase or underwrite an issue or series of issues of notes.

(b) To enter into any purchase, loan or credit agreements, and to draw monies pursuant to any such agreements on the terms and conditions set forth therein and to issue notes as evidence of borrowings made under any such agreements.

(c) To appoint or act as issuing and paying agent or agents with respect to notes.

(d) To do such other acts as may be necessary or appropriate to provide for the payment, when due, of the principal of and interest on such notes.

Such agreements may provide for the compensation of any purchasers or underwriters of notes or replacement notes by payment of a fixed fee or commission at the time of issuance thereof, and for all other costs and expenses, including fees for agreements related to the notes issuing and paying agent costs. Costs and expenses of issuance may be paid from the proceeds of the notes.

(4) When the authorization and direction of the seller provides for the issuance of replacement notes, it shall, at or prior to the time of delivery of these notes or replacement notes, determine the principal amounts, dates of issue, interest rate or rates, rates of discount, denominations and all other terms and conditions relating to the issuance. The State Treasurer shall perform all acts and things necessary to pay or cause to be paid, when due, all principal of and interest on the notes being refunded by replacement notes and to assure that the same may draw upon any monies available for that purpose pursuant to any purchase loan or credit agreements established with respect thereto, all subject to the authorization and direction of the seller.

(5) Outstanding notes evidencing such borrowings may be funded and retired by the issuance and sale of the bonds of the state as hereinafter authorized. The refunding bonds must be issued and sold not later than a date two (2) years after the date of issuance of the first notes evidencing such borrowings to the extent that payment of such notes has not otherwise been made or provided for by sources other than proceeds of replacement notes.

(6) The proceeds of all such temporary borrowing shall be paid to the State Treasurer to be held and disposed of in accordance with the provisions of Section 57-71-31.

SOURCES: Laws, 1988, ch. 580, § 15, eff from and after passage (approved May 21, 1988).

§ 57-71-31. Disposition of proceeds realized from sale of bonds and notes.

(1) The proceeds realized from the sale of bonds and notes under this act, other than refunding bonds and replacement notes, shall be paid to the State Treasurer and deposited into the Mississippi Small Enterprise Development Finance Fund or funds and specifically dedicated to the purposes enumerated in this act.

(2) All nonfederal funds which may become available for the purposes of this act shall be deposited in the Mississippi Small Enterprise Development Finance Fund or funds and shall be allocated for the purposes of this act.

(3) The proceeds of the sale of refunding bonds and replacement notes shall be applied solely to the payment of the principal of and the accrued interest on and premium, if any, and costs of redemption of the bonds and notes for which such obligations have been issued.

SOURCES: Laws, 1988, ch. 580, § 16, eff from and after passage (approved May 21, 1988).

Cross References — Authorization to issue replacement notes to repay temporary borrowings, see § 57-71-29.

§ 57-71-33. State Attorney General to represent seller in issuing, selling and validating bonds or notes; seller authorized to use proceeds to pay administrative, legal and other expenses.

Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent the seller in issuing, selling and validating bonds or notes herein provided for, and the seller is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds or notes authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds or notes authorized under this act.

SOURCES: Laws, 1988, ch. 580, § 17; Laws, 2012, ch. 546, § 25, eff from and after July 1, 2012.

§ 57-71-35. Term "this act" defined.

The term "this act" referred to in Sections 57-71-1 through 57-71-33 hereof shall mean the Mississippi Small Enterprise Development Finance Act unless the context clearly indicates otherwise.

SOURCES: Laws, 1988, ch. 580, § 26, eff from and after passage (approved May 21, 1988).

CHAPTER 73

Economic Development Reform Act

Sec.

57-73-1 through 57-73-19. Repealed.
57-73-21. Determination and designation of counties' unemployment rate and per capita income; job tax credit for corporations.
57-73-23. Income tax credit for employer providing dependent care for employees.
57-73-25. Tax credit for employer providing basic skills training or retraining programs [Repealed effective July 1, 2016].
57-73-27. Promulgation of rules and regulations by State Tax Commission.
57-73-29. Promulgation of rules and regulations by Department of Economic Development.

§§ 57-73-1 through 57-73-19. Repealed.

Repealed by Laws, 1994, ch. 650, § 22, eff from and after passage (approved April 8, 1994).

[Laws, 1989, ch. 524, §§ 1-10]

Editor's Note — Former §§ 57-73-1 through 57-73-19 established the Mississippi Seed Capital Corporation and Mississippi Seed Capital Fund and provided income tax credits for taxpayers participating in seed capital formation. For similar provisions, see §§ 57-77-1 et seq., and § 27-7-22.11.

§ 57-73-21. Determination and designation of counties' unemployment rate and per capita income; job tax credit for corporations.

[In cases involving business enterprises that received or applied for the job tax credit authorized by this section prior to January 1, 2005, this section shall read as follows:]

(1) Annually by December 31, using the most current data available from the University Research Center, Mississippi Department of Employment Security and the United States Department of Commerce, the State Tax Commission shall rank and designate the state's counties as provided in this section. The twenty-eight (28) counties in this state having a combination of the highest unemployment rate and lowest per capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier Three areas. The twenty-seven (27) counties in the state with a combination of the next highest unemployment rate and next lowest per capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier Two areas. The twenty-seven (27) counties in the state with a combination of the lowest unemployment rate and the highest per capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier One areas. Counties designated by the Tax Commission qualify for the appropriate tax credit for jobs as provided in subsections (2), (3) and (4) of this section. The designation by the Tax

Commission is effective for the tax years of permanent business enterprises which begin after the date of designation. For companies which plan an expansion in their labor forces, the Tax Commission shall prescribe certification procedures to ensure that the companies can claim credits in future years without regard to whether or not a particular county is removed from the list of Tier Three or Tier Two areas.

(2) Permanent business enterprises primarily engaged in manufacturing, processing, warehousing, distribution, wholesaling and research and development, or permanent business enterprises designated by rule and regulation of the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of one hundred fifty (150) guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunications enterprises, data or information processing enterprises or computer software development enterprises or any technology intensive facility or enterprise, in counties designated by the Tax Commission as Tier Three areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to Two Thousand Dollars ($2,000.00) annually for each net new full-time employee job for five (5) years beginning with years two (2) through six (6) after the creation of the job; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Chairman of the State Tax Commission may extend this time period for not more two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to the Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent businesses that increase employment by ten (10) or more in a Tier Three area are eligible for the credit. Credit is not allowed during any of the five (5) years if the net employment increase falls below ten (10). The Tax Commission shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of ten (10).

(3) Permanent business enterprises primarily engaged in manufacturing, processing, warehousing, distribution, wholesaling and research and development, or permanent business enterprises designated by rule and regulation of the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of one hundred fifty (150) guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunications enterprises, data or information processing enterprises or computer software development enterprises or any technology intensive facility or enterprise, in counties that have been designated by the Tax Commission as Tier Two areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to One Thousand Dollars ($1,000.00) annually for each net new full-time employee job for five (5) years beginning with years two (2) through six (6)

after the creation of the job; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Chairman of the State Tax Commission may extend this time period for not more two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent businesses that increase employment by fifteen (15) or more in Tier Two areas are eligible for the credit. The credit is not allowed during any of the five (5) years if the net employment increase falls below fifteen (15). The Tax Commission shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of fifteen (15).

(4) Permanent business enterprises primarily engaged in manufacturing, processing, warehousing, distribution, wholesaling and research and development, or permanent business enterprises designated by rule and regulation of the Mississippi Development Authority as air transportation and maintenance facilities, final destination or resort hotels having a minimum of one hundred fifty (150) guest rooms, recreational facilities that impact tourism, movie industry studios, telecommunications enterprises, data or information processing enterprises or computer software development enterprises or any technology intensive facility or enterprise, in counties designated by the Tax Commission as Tier One areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to Five Hundred Dollars ($500.00) annually for each net new full-time employee job for five (5) years beginning with years two (2) through six (6) after the creation of the job; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Chairman of the State Tax Commission may extend this time period for not more than two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent businesses that increase employment by twenty (20) or more in Tier One areas are eligible for the credit. The credit is not allowed during any of the five (5) years if the net employment increase falls below twenty (20). The Tax Commission shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of twenty (20).

(5) In addition to the credits authorized in subsections (2), (3) and (4), an additional Five Hundred Dollars ($500.00) credit for each net new full-time employee or an additional One Thousand Dollars ($1,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred

twenty-five percent (125%) of the average annual wage of the state or an additional Two Thousand Dollars ($2,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least two hundred percent (200%) of the average annual wage of the state, shall be allowed for any company establishing or transferring its national or regional headquarters from within or outside the State of Mississippi. A minimum of thirty-five (35) jobs must be created to qualify for the additional credit. The State Tax Commission shall establish criteria and prescribe procedures to determine if a company qualifies as a national or regional headquarters for purposes of receiving the credit awarded in this subsection. As used in this subsection, the average annual wage of the state is the most recently published average annual wage as determined by the Mississippi Department of Employment Security.

(6) In addition to the credits authorized in subsections (2), (3), (4) and (5), any job requiring research and development skills (chemist, engineer, etc.) shall qualify for an additional One Thousand Dollars ($1,000.00) credit for each net new full-time employee.

(7) In lieu of the tax credits provided in subsections (2) through (6), any commercial or industrial property owner which remediates contaminated property in accordance with Sections 49-35-1 through 49-35-25, is allowed a job tax credit for taxes imposed by Section 27-7-5 equal to the amounts provided in subsection (2), (3) or (4) for each net new full-time employee job for five (5) years beginning with years two (2) through six (6) after the creation of the job. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. This subsection shall be administered in the same manner as subsections (2), (3) and (4), except the landowner shall not be required to increase employment by the levels provided in subsections (2), (3) and (4) to be eligible for the tax credit.

(8) Tax credits for five (5) years for the taxes imposed by Section 27-7-5 shall be awarded for additional net new full-time jobs created by business enterprises qualified under subsections (2), (3), (4), (5), (6) and (7) of this section. Except as otherwise provided, the Tax Commission shall adjust the credit allowed in the event of employment fluctuations during the additional five (5) years of credit.

(9)(a) The sale, merger, acquisition, reorganization, bankruptcy or relocation from one (1) county to another county within the state of any business enterprise may not create new eligibility in any succeeding business entity, but any unused job tax credit may be transferred and continued by any transferee of the business enterprise. The Tax Commission shall determine whether or not qualifying net increases or decreases have occurred or proper transfers of credit have been made and may require reports, promulgate regulations, and hold hearings as needed for substantiation and qualification.

(b) This subsection shall not apply in cases in which a business enterprise has ceased operation, laid off all its employees and is subsequently acquired by another unrelated business entity that continues operation of the enterprise in the same or a similar type of business. In such a case the succeeding business entity shall be eligible for the credit authorized by this section unless the cessation of operation of the business enterprise was for the purpose of obtaining new eligibility for the credit.

(10) Any tax credit claimed under this section but not used in any taxable year may be carried forward for five (5) years from the close of the tax year in which the qualified jobs were established but the credit established by this section taken in any one (1) tax year must be limited to an amount not greater than fifty percent (50%) of the taxpayer's state income tax liability which is attributable to income derived from operations in the state for that year. If the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the business enterprise is unable to use the existing carryforward, the Chairman of the State Tax Commission may extend the period that the credit may be carried forward for a period of time not to exceed two (2) years.

(11) No business enterprise for the transportation, handling, storage, processing or disposal of hazardous waste is eligible to receive the tax credits provided in this section.

(12) The credits allowed under this section shall not be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits.

(13) The tax credits provided for in this section shall be in addition to any tax credits described in Sections 57-51-13(b), 57-53-1(1) (a) and 57-54-9(b) and granted pursuant to official action by the Mississippi Development Authority prior to July 1, 1989, to any business enterprise determined prior to July 1, 1989, by the Mississippi Development Authority to be a qualified business as defined in Section 57-51-5(f) or Section 57-54-5(d) or a qualified company as described in Section 57-53-1, as the case may be; however, from and after July 1, 1989, tax credits shall be allowed only under either this section or Sections 57-51-13(b), 57-53-1(1)(a) and Section 57-54-9(b) for each net new full-time employee.

(14) As used in this section, the term "telecommunications enterprises" means entities engaged in the creation, display, management, storage, processing, transmission or distribution for compensation of images, text, voice, video or data by wire or by wireless means, or entities engaged in the construction, design, development, manufacture, maintenance or distribution for compensation of devices, products, software or structures used in the above activities. Companies organized to do business as commercial broadcast radio stations, television stations or news organizations primarily serving in-state markets shall not be included within the definition of the term "telecommunications enterprises."

[In cases involving business enterprises that apply for the job tax credit authorized by this section from and after January 1, 2005, this section shall read as follows:]

(1) Annually by December 31, using the most current data available from the University Research Center, Mississippi Department of Employment Security and the United States Department of Commerce, the Department of Revenue shall rank and designate the state's counties as provided in this section. The twenty-eight (28) counties in this state having a combination of the highest unemployment rate and lowest per capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier Three areas. The twenty-seven (27) counties in the state with a combination of the next highest unemployment rate and next lowest per capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier Two areas. The twenty-seven (27) counties in the state with a combination of the lowest unemployment rate and the highest per capita income for the most recent thirty-six-month period, with equal weight being given to each category, are designated Tier One areas. Counties designated by the Department of Revenue qualify for the appropriate tax credit for jobs as provided in this section. The designation by the Department of Revenue is effective for the tax years of permanent business enterprises which begin after the date of designation. For companies which plan an expansion in their labor forces, the Department of Revenue shall prescribe certification procedures to ensure that the companies can claim credits in future years without regard to whether or not a particular county is removed from the list of Tier Three or Tier Two areas.

(2) Permanent business enterprises in counties designated by the Department of Revenue as Tier Three areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to ten percent (10%) of the payroll of the enterprise for net new full-time employee jobs for five (5) years beginning with years two (2) through six (6) after the creation of the minimum number of jobs required by this subsection; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Commissioner of Revenue may extend this time period for not more than two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to the Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent business enterprises that increase employment by ten (10) or more in a Tier Three area are eligible for the credit. Credit is not allowed during any of the five (5) years if the net employment increase falls below ten (10). The Department of Revenue shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of ten (10).

(3) Permanent business enterprises in counties that have been designated by the Department of Revenue as Tier Two areas are allowed a job tax

credit for taxes imposed by Section 27-7-5 equal to five percent (5%) of the payroll of the enterprise for net new full-time employee jobs for five (5) years beginning with years two (2) through six (6) after the creation of the minimum number of jobs required by this subsection; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Commissioner of Revenue may extend this time period for not more than two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent business enterprises that increase employment by fifteen (15) or more in Tier Two areas are eligible for the credit. The credit is not allowed during any of the five (5) years if the net employment increase falls below fifteen (15). The Department of Revenue shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of fifteen (15).

(4) Permanent business enterprises in counties designated by the Department of Revenue as Tier One areas are allowed a job tax credit for taxes imposed by Section 27-7-5 equal to two and one-half percent (2.5%) of the payroll of the enterprise for net new full-time employee jobs for five (5) years beginning with years two (2) through six (6) after the creation of the minimum number of jobs required by this subsection; however, if the permanent business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the permanent business enterprise is unable to maintain the required number of jobs, the Commissioner of Revenue may extend this time period for not more than two (2) years. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. Only those permanent business enterprises that increase employment by twenty (20) or more in Tier One areas are eligible for the credit. The credit is not allowed during any of the five (5) years if the net employment increase falls below twenty (20). The Department of Revenue shall adjust the credit allowed each year for the net new employment fluctuations above the minimum level of twenty (20).

(5)(a) In addition to the other credits authorized in this section, an additional Five Hundred Dollars ($500.00) credit for each net new full-time employee or an additional One Thousand Dollars ($1,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the average annual wage of the state or an additional Two Thousand Dollars ($2,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least two hundred percent (200%) of the average annual wage of the state, shall be allowed for any company establishing or transferring its national or regional headquarters from within or outside the State of Mississippi. A minimum of twenty (20) jobs must be created to qualify for the additional credit. The Department of Revenue shall establish criteria and prescribe procedures to determine if a company qualifies as a national or regional headquarters for purposes of receiving the credit awarded in this paragraph (a). As used in this paragraph (a), the average annual wage of the state is the most recently published average annual wage as determined by the Mississippi Department of Employment Security.

(b) In addition to the other credits authorized in this section, an additional Five Hundred Dollars ($500.00) credit for each net new full-time employee or an additional One Thousand Dollars ($1,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the average annual wage of the state or an additional Two Thousand Dollars ($2,000.00) credit for each net new full-time employee who is paid a salary, excluding benefits which are not subject to Mississippi income taxation, of at least two hundred percent (200%) of the average annual wage of the state, shall be allowed for any company expanding or making additions after January 1, 2013, to its national or regional headquarters within the State of Mississippi. A minimum of twenty (20) new jobs must be created to qualify for the additional credit. The Department of Revenue shall establish criteria and prescribe procedures to determine if a company qualifies as a national or regional headquarters for purposes of receiving the credit awarded in this paragraph (b). As used in this paragraph (b), the average annual wage of the state is the most recently published average annual wage as determined by the Mississippi Department of Employment Security.

(6) In addition to the other credits authorized in this section, any job requiring research and development skills (chemist, engineer, etc.) shall qualify for an additional One Thousand Dollars ($1,000.00) credit for each net new full-time employee.

(7)(a) In addition to the other credits authorized in this section, any company that transfers or relocates its national or regional headquarters to the State of Mississippi from outside the State of Mississippi may receive a tax credit in an amount equal to the actual relocation costs paid by the company. A minimum of twenty (20) jobs must be created in order to qualify for the additional credit authorized under this subsection. Relocation costs for which a credit may be awarded shall be determined by the Department of Revenue and shall include those nondepreciable expenses that are necessary to relocate headquarters employees to the national or regional headquarters, including, but not limited to, costs such as travel expenses for employees and members of their households to and from Mississippi in search of homes and moving expenses to relocate furnishings, household goods and personal property of the employees and members of their households.

(b) The tax credit authorized under this subsection shall be applied for the taxable year in which the relocation costs are paid. The maximum cumulative amount of tax credits that may be claimed by all taxpayers claiming a credit under this subsection in any one (1) state fiscal year shall not exceed One Million Dollars ($1,000,000.00), exclusive of credits that might be carried forward from previous taxable years. A company may not receive a credit for the relocation of an employee more than one (1) time in a twelve-month period for that employee.

(c) The Department of Revenue shall establish criteria and prescribe procedures to determine if a company creates the required number of jobs and qualifies as a national or regional headquarters for purposes of receiving the credit awarded in this subsection. A company desiring to claim a credit under this subsection must submit an application for such credit with the Department of Revenue in a manner prescribed by the department.

(d) In order to participate in the provisions of this section, a company must certify to the Mississippi Department of Revenue that it complies with the equal pay provisions of the federal Equal Pay Act of 1963, the Americans with Disabilities Act of 1990 and the fair pay provisions of the Civil Rights Act of 1964.

(e) This subsection shall stand repealed on July 1, 2019.

(8) In lieu of the other tax credits provided in this section, any commercial or industrial property owner which remediates contaminated property in accordance with Sections 49-35-1 through 49-35-25, is allowed a job tax credit for taxes imposed by Section 27-7-5 equal to the percentage of payroll provided in subsection (2), (3) or (4) of this section for net new full-time employee jobs for five (5) years beginning with years two (2) through six (6) after the creation of the jobs. The number of new full-time jobs must be determined by comparing the monthly average number of full-time employees subject to Mississippi income tax withholding for the taxable year with the corresponding period of the prior taxable year. This subsection shall be administered in the same manner as subsections (2), (3) and (4), except the landowner shall not be required to increase employment by the levels provided in subsections (2), (3) and (4) to be eligible for the tax credit.

(9)(a) Tax credits for five (5) years for the taxes imposed by Section 27-7-5 shall be awarded for increases in the annual payroll for net new full-time jobs created by business enterprises qualified under this section. The Department of Revenue shall adjust the credit allowed in the event of payroll fluctuations during the additional five (5) years of credit.

(b) Tax credits for five (5) years for the taxes imposed by Section 27-7-5 shall be awarded for additional net new full-time jobs created by business enterprises qualified under subsections (5) and (6) of this section and for additional relocation costs paid by companies qualified under subsection (7) of this section. The Department of Revenue shall adjust the credit allowed in the event of employment fluctuations during the additional five (5) years of credit.

and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the July 24, 2014, meeting of the Committee.

Editor's Note — Laws of 1989, ch. 524, § 36, provides:

"SECTION 36. The repeal or amendment of this act shall not reduce the terms of any tax reduction, special tax incentive or financial assistance agreed upon pursuant to official action by the Department of Economic Development, the State Tax Commission or other appropriate agency of the state or political subdivision thereof prior to the effective date of such repeal or amendment."

Section 57-53-1 referred to in (13) in the first version and (15) in the second version was repealed by Laws, 1989, ch. 524, § 33, eff from and after July 1, 1989.

Sections 57-51-5 and 57-51-13, referred to in (13) in the first version and (15) in the second version, were repealed by Laws of 1989, ch. 524, § 33, effective from and after July 1, 1989.

Section 57-53-1, referred to in (13) in the first version and (15) in the second version, was repealed by Laws of 1989, ch. 524, § 33, effective from and after July 1, 1989.

Sections 57-54-5 and 57-54-9, referred to in (13) in the first version and (15) in the second version, were repealed by Laws of 1989, ch. 524, § 34, effective from and after July 1, 1989.

Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

Laws of 2005, ch. 497, § 8 provides as follows:

"SECTION 8. Nothing in Laws of 2005, Chapter 497, shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before January 1, 2005 or are begun thereafter. The provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before January 1, 2005, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

Amendment Notes — The first 2013 amendment (ch. 447), in the second version of the section, substituted "Department of Revenue" for "Tax Commission" throughout the section; substituted "Commissioner of Revenue" for "Chairman of the State Tax Commission" throughout.

The second 2013 amendment (ch. 571), in the second version, added "(a)" at the beginning of (5) and added (5)(b); substituted "Department of Revenue" for "State Tax Commission" and "Commissioner of Revenue" for "Chairman of the State Tax Commission" throughout and made a minor stylistic change.

The first 2014 amendment (ch. 445), in the second version, added (7) and redesignated remaining subsections accordingly; in (9)(b), inserted "and for additional relocation costs paid by companies qualified under subsection (7) of this section" in the first sentence"; in (11), inserted "and/or headquarters relocation costs paid, as applicable," in the first sentence.

The second 2014 amendment (ch. 455), in the first version of the section, in (4), substituted "not more than two (2) years" for "not more two (2) years" at the end; in the second version of the section, in (14)(a)(i), inserted "warehousing activities"; and added (14)(c).

Cross References — Job tax credit for permanent business enterprises operating certain projects that create at least 3,000 new full-time jobs, see § 27-7-22.17.

Job tax credit for integrated suppliers located on the site of certain projects, see § 27-7-22.19.

Job tax credit for enterprises owning or operating an upholstered household furniture manufacturing facility for each full-time employee in new cut and sew job, see § 27-7-22.36.

University Research Center, see §§ 37-141-1 et seq.

Mississippi Development Authority generally, see §§ 57-1-1 et seq.

JUDICIAL DECISIONS

1. Qualification standards.

Corporation did not qualify for jobs tax credit because it was clear that Miss. Code Ann. § 57-73-21(4) mandated that the number of new full-time employees was to be calculated by comparing the number of employees in the year for which the tax credit was taken with the number of employees from the previous year; following this logic, it was apparent that a business had to have an increase of 20 employees in order to merit the jobs tax credit, and this number was determined by comparing the increase in employees with the number of employees from the previous year. Manufab, Inc. v. State Tax Comm'n, 808 So. 2d 947 (Miss. 2002).

§ 57-73-23. Income tax credit for employer providing dependent care for employees.

A fifty percent (50%) income tax credit shall be granted to any employer providing dependent care for employees during the employee's work hours. Credit is applied to the net cost of any contract executed by the employer for another entity to provide dependent care; or, if the employer elects to provide dependent care itself, to expenses of dependent care staff, learning and recreational materials and equipment, and the construction and maintenance of a facility. Additional eligible expenses include net costs assumed by the employer which increase the quality, availability and affordability of dependent care in the community used by employees during the employee's work hours. This cost is net of any reimbursement. A deduction shall not be allowed for any expenses which serve as the basis for an income tax credit. The credits allowed under this section shall not be used by any business enterprise or corporation other than the business enterprise actually qualifying for the credits.

Credit may be carried forward for the five (5) successive years if the amount allowable as credit exceeds income tax liability in a tax year; however, thereafter, if the amount allowable as a credit exceeds the tax liability, the amount of excess shall not be refundable or carried forward to any other taxable year.

The facility must have an average daily enrollment for the taxable year of no less than six (6) children who are twelve (12) years of age or less and be licensed according to the regulations governing licensure of child care facilities in Mississippi; or must serve five (5) or fewer children and/or elderly adults in a family child care/elder care home approved by the Department of Health for participation in the United States Department of Agriculture child and adult nutrition program; or must serve children over twelve (12) years of age but less than eighteen (18) years of age in either a community-based facility or a facility at the employment site; or must serve adult relatives of employees in either a community-based elder care facility or a facility at the employment site; or must serve children or adult dependents having physical, emotional or mental disabilities in either a community-based facility or a facility at the employment site.

Employers will be certified as eligible for the tax credit by the Mississippi Department of Health for programs serving children twelve (12) years of age or younger and for programs serving elderly adults and by the State Tax Commission for programs serving other dependents older than twelve (12) years of age.

SOURCES: Laws, 1989, ch. 524, § 12; Laws, 1990, ch. 502, § 9; Laws, 1995, ch. 433, § 1; Laws, 1997, ch. 490, § 1, eff from and after January 1, 1998.

Editor's Note — Laws of 1989, ch. 524, § 36, provides:

"SECTION 36. The repeal or amendment of this act shall not reduce the terms of any tax reduction, special tax incentive or financial assistance agreed upon pursuant to official action by the Department of Economic Development, the State Tax Commission or other appropriate agency of the state or political subdivision thereof prior to the effective date of such repeal or amendment."

Laws of 1997, ch. 490, § 2, effective January 1, 1998, provides as follows:

"SECTION 2. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws."

Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

§ 57-73-25. Tax credit for employer providing basic skills training or retraining programs [Repealed effective July 1, 2016].

(1) A fifty percent (50%) income tax credit shall be granted to any employer (as defined in subsection (4) of this section) sponsoring skills training. The fifty percent (50%) credit shall be granted to employers that participate in employer-sponsored training programs through any community/junior college in the district within which the employer is located or training approved by such community/junior college. The credit is applied to qualified training expenses, which are expenses related to instructors, instructional materials and equipment, and the construction and maintenance of facilities by such employer designated for training purposes which is attributable to

training provided through such community/junior college or training approved by such community/junior college. The credits allowed under this section shall only be used by the actual employer qualifying for the credits. The credit shall not exceed fifty percent (50%) of the income tax liability in a tax year and may be carried forward for the five (5) successive years if the amount allowable as credit exceeds the income tax liability in a tax year; however, thereafter, if the amount allowable as a credit exceeds the tax liability, the amount of excess shall not be refundable or carried forward to any other taxable year. The credit authorized under this section shall not exceed Two Thousand Five Hundred Dollars ($2,500.00) per employee during any one (1) year. Nothing in this section shall be interpreted in any manner as to prevent the continuing operation of state-supported university programs.

(2) Employer-sponsored training shall include an evaluation by the local community or junior college that serves the employer to ensure that the training provided is job related and conforms to the definition of "skills training" as hereinafter defined.

(3) Employers shall be certified as eligible for the tax credit by the local community or junior college that serves the employer and the Department of Revenue.

(4) For the purposes of this section:

(a) "Skills training" means any employer-sponsored training by an appropriate community/junior college or training approved by such community/junior college that enhances skills that improve job performance. If the employer provides preemployment training, the portion of the preemployment training that involves skills training shall be eligible for the credit.

(b) "Employer-sponsored training" means training provided by the appropriate community/junior college in the district within which the employer is located or training approved by such community/junior college.

(c) "Employer" means those permanent business enterprises as defined and set out in Section 57-73-21.

(5) The tax credits provided for in this section shall be in addition to all other tax credits heretofore granted by the laws of the state.

(6) A community/junior college may commit to provide employer-sponsored skills training programs for an employer for a multiple number of years, not to exceed five (5) years.

(7) The Mississippi Community College Board shall make a report to the Legislature by January 30 of each year summarizing the number of participants, the junior or community college through which the training was offered and the type training offered.

(8) This section shall stand repealed from and after July 1, 2016.

SOURCES: Laws, 1989, ch. 524, § 13; Laws, 1990, ch. 502, § 10; Laws, 1992, ch. 567, § 1; Laws, 1993, ch. 602, § 15; Laws, 1994, ch. 436, § 1; Laws, 1995, ch. 527, § 3; Laws, 2000, ch. 382, § 1; Laws, 2000, 2nd Ex Sess, ch. 1, § 41; reenacted and amended, Laws, 2002, ch. 382, § 1; Laws, 2004, ch. 513, § 1; Laws, 2005, 3rd Ex Sess, ch. 1, § 67; Laws, 2006, ch. 339, § 1; Laws, 2008, ch.

367, § 1; Laws, 2012, ch. 400, § 1; Laws, 2014, ch. 397, § 61, eff from and after July 1, 2014.

Editor's Note — Laws of 1989, ch. 524, § 36, provides:

"SECTION 36. The repeal or amendment of this act shall not reduce the terms of any tax reduction, special tax incentive or financial assistance agreed upon pursuant to official action by the Department of Economic Development, the State Tax Commission or other appropriate agency of the state or political subdivision thereof prior to the effective date of such repeal or amendment."

Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

Amendment Notes — The 2014 amendment substituted "Mississippi Community College Board" for "State Board for Community and Junior Colleges" in (7).

Cross References — Job tax credit for permanent business enterprises operating certain projects that create at least 3,000 new full-time jobs, see § 27-7-22.17.

Job tax credit for integrated suppliers located on the site of certain projects, see § 27-7-22.19.

Mississippi Community College Board generally, see § 37-4-1 et seq.

Mississippi Community College Board to develop program of adult education, see § 37-35-1.

Work Force Education Act, see § 37-153-1 et seq.

§ 57-73-27. Promulgation of rules and regulations by State Tax Commission.

The State Tax Commission is authorized to promulgate reasonable rules and regulations necessary to accomplish its duties under Chapter 524, Laws, 1989.

SOURCES: Laws, 1989, ch. 524, § 30, eff from and after July 1, 1989.

Editor's Note — For a complete list of Mississippi code sections affected by Laws of 1989, ch. 524, see the Allocation of Acts table in the Volume containing the statutory tables.

Laws of 1989, ch. 524, § 36, provides as follows:

"SECTION 36. The repeal or amendment of this act shall not reduce the terms of any tax reduction, special tax incentive or financial assistance agreed upon pursuant to official action by the Department of Economic Development, the State Tax Commission or other appropriate agency of the state or political subdivision thereof prior to the effective date of such repeal or amendment."

Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

§ 57-73-29. Promulgation of rules and regulations by Department of Economic Development.

The Department of Economic Development is authorized to promulgate reasonable rules and regulations necessary to accomplish its duties under Chapter 524, Laws, 1989.

SOURCES: Laws, 1989, ch. 524, § 31, eff from and after July 1, 1989.

Editor's Note — For a complete list of Mississippi code sections affected by Laws, 1989, ch. 524, see the Allocation of Acts table in the Volume containing the statutory tables.

Section 57-1-54 provides that the term "Mississippi Department of Economic Development" shall mean the "Department of Economic and Community Development".

Laws of 1989, ch. 524, § 36, provides as follows:

"SECTION 36. The repeal or amendment of this act shall not reduce the terms of any tax reduction, special tax incentive or financial assistance agreed upon pursuant to official action by the Department of Economic Development, the State Tax Commission or other appropriate agency of the state or political subdivision thereof prior to the effective date of such repeal or amendment."

CHAPTER 75

Mississippi Major Economic Impact Act

Sec.
57-75-1. Short title.
57-75-3. Legislative findings and declarations.
57-75-5. Definitions [Repealed effective July 1, 2019].
57-75-7. Creation of Mississippi Major Economic Impact Authority; executive director.
57-75-9. Action by authority on behalf of state; cooperation of public agencies with authority; contracts by authority or public agency.
57-75-11. General powers and duties of authority.
57-75-13. Powers and duties of Board of Trustees of State Institutions of Higher Learning.
57-75-15. Powers and duties of State Bond Commission.
57-75-17. Powers and duties of public agencies; provision in contracts or agreements between authority and public agency for payment of indebtedness; proceedings upon failure of public agency to pay indebtedness.
57-75-19. Approval by county, municipality and/or school district for development of project or facility.
57-75-21. Expenditures with certain small business concerns.
57-75-22. Highway projects constructed or improved for certain projects under this chapter to be under jurisdiction of Mississippi Transportation Commission.
57-75-23. Construction of act.
57-75-25. Derivation of income from issuance of bonds by certain persons.
57-75-27. Provision of buffer zone for NASA facility in Tishomingo County.
57-75-29. Repealed.
57-75-31. Repealed.
57-75-33. Counties and municipalities authorized to enter into agreements with enterprises operating certain projects, providing that no taxes, fees or assessments will be levied upon the enterprise other than those generally levied upon all taxpayers; counties and municipalities authorized to enter into fee in lieu of ad valorem taxes agreements.
57-75-35. Counties and municipalities authorized to enter into agreements with enterprises operating certain projects, providing that a county or municipality will approve requests for exemption from ad valorem taxes by supplier.
57-75-37. Certain counties authorized to contribute or lend funds to enterprises owning or operating certain projects; county may issue bonds to provide funds for such purposes; county may donate property for use in the location, construction, or operation of such projects; additional authority to acquire and contribute project sites, apply for grants and loans for project infrastructure, and enter into certain lease agreements.

§ 57-75-1. Short title.

This chapter shall be known and may be cited as the "Mississippi Major Economic Impact Act."

SOURCES: Laws, 1989, ch. 534, § 1, eff from and after passage (approved April 17, 1989).

§ 57-75-3. Legislative findings and declarations.

The Legislature hereby finds and declares that:

(a) There exists in the State of Mississippi a continuing need for gainful employment for the citizens of this state.

(b) To help provide employment opportunities, a division within the Mississippi Development Authority should be created with power to secure the location and expansion within this state of major economic impact projects by providing assistance and incentives in connection with such projects.

(c) In accomplishing this purpose, such division will be acting in all respects for the benefit of the people of the state in the performance of essential public functions and is serving a valid public purpose in improving and otherwise promoting their health, welfare and prosperity, and the enactment of the provisions hereinafter set forth is for a valid public purpose.

(d) Public agencies of the state, as herein defined, must be authorized and empowered to contract with and cooperate with the authority for the purposes herein set out.

(e) The borrowing of money and the issuance of bonds for the purposes hereinafter set out serves valid public purposes in that the project will significantly contribute to the employment base and scientific and educational growth of the state.

(f) The Mississippi Major Economic Impact Authority created pursuant to this chapter shall implement the provisions of this chapter and exercise all power as authorized in this chapter; however, the application of this chapter or the offering of any assistance and incentives as to any particular project or person shall be in the sole discretion of the Mississippi Major Economic Impact Authority, and nothing in this chapter shall be deemed to vest in any person any right to any assistance or incentive contained herein unless the assistance or incentive is approved by the Mississippi Major Economic Impact Authority pursuant to this chapter. The exercise of powers conferred by this chapter shall be deemed and held to be the performance of essential public purposes.

SOURCES: Laws, 1989, ch. 534, § 2; Laws, 2003, ch. 326, § 1, eff from and after passage (approved Mar. 7, 2003.)

Cross References — Mississippi Development Authority, see §§ 57-1-1 et seq.

ATTORNEY GENERAL OPINIONS

If the Mississippi Major Economic Impact Authority finds that such financing arrangements serve a valid public purpose in improving and otherwise promoting the health, welfare, and prosperity, and such arrangements do not jeopardize a corporation's obligations to the state under a memorandum of understanding, then the authority may allow a leaseholder and sublessees to grant liens upon their respective leasehold interests in a project site, in the project and/or in the improvements. Pittman, Mar. 23, 2001, A.G. Op. #01-0148.

§ 57-75-5. Definitions [Repealed effective July 1, 2019].

Words and phrases used in this chapter shall have meanings as follows, unless the context clearly indicates a different meaning:

(a) "Act" means the Mississippi Major Economic Impact Act as originally enacted or as hereafter amended.

(b) "Authority" means the Mississippi Major Economic Impact Authority created pursuant to the act.

(c) "Bonds" means general obligation bonds, interim notes and other evidences of debt of the State of Mississippi issued pursuant to this chapter.

(d) "Facility related to the project" means and includes any of the following, as the same may pertain to the project within the project area: (i) facilities to provide potable and industrial water supply systems, sewage and waste disposal systems and water, natural gas and electric transmission systems to the site of the project; (ii) airports, airfields and air terminals; (iii) rail lines; (iv) port facilities; (v) highways, streets and other roadways; (vi) public school buildings, classrooms and instructional facilities, training facilities and equipment, including any functionally related facilities; (vii) parks, outdoor recreation facilities and athletic facilities; (viii) auditoriums, pavilions, campgrounds, art centers, cultural centers, folklore centers and other public facilities; (ix) health care facilities, public or private; and (x) fire protection facilities, equipment and elevated water tanks.

(e) "Person" means any natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, governmental unit, public agency, political subdivision, or any other group acting as a unit, and the plural as well as the singular.

(f) "Project" means:

(i) Any industrial, commercial, research and development, warehousing, distribution, transportation, processing, mining, United States government or tourism enterprise together with all real property required for construction, maintenance and operation of the enterprise with an initial capital investment of not less than Three Hundred Million Dollars ($300,000,000.00) from private or United States government sources together with all buildings, and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise; or with an initial capital investment of not less than One Hundred Fifty Million Dollars ($150,000,000.00) from private or United States government sources together with all buildings and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise and which creates at least one thousand (1,000) net new full-time jobs; or which creates at least one thousand (1,000) net new full-time jobs which provides an average salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the most recently published average annual wage of the state as determined by the Mississippi Department of Employment Security. "Project" shall include any addition to or expansion of an existing enterprise if such addition or expansion has an initial capital investment of not less than Three Hundred Million Dollars ($300,000,000.00) from private or United States government sources, or has an initial capital investment of not less than One Hundred Fifty Million Dollars ($150,000,000.00) from private or United States government sources together with all buildings and other supporting land and facilities, structures or improvements of whatever kind required or useful for construction, maintenance and operation of the enterprise and which creates at least one thousand (1,000) net new full-time jobs; or which creates at least one thousand (1,000) net new full-time jobs which provides an average salary, excluding benefits which are not subject to Mississippi income taxation, of at least one hundred twenty-five percent (125%) of the most recently published average annual wage of the state as determined by the Mississippi Department of Employment Security. "Project" shall also include any ancillary development or business resulting from the enterprise, of which the authority is notified, within three (3) years from the date that the enterprise entered into commercial production, that the project area has been selected as the site for the ancillary development or business.

(ii)1. Any major capital project designed to improve, expand or otherwise enhance any active duty or reserve United States armed services bases and facilities or any major Mississippi National Guard training installations, their support areas or their military operations, upon designation by the authority that any such base was or is at risk to be recommended for closure or realignment pursuant to the Defense Base Closure and Realignment Act of 1990, as amended, or other applicable federal law; or any major development project determined by the authority to be necessary to acquire or improve base properties and to provide employment opportunities through construction of projects as defined in Section 57-3-5, which shall be located on or provide direct support service or access to such military installation property in the event of closure or reduction of military operations at the installation.

2. Any major study or investigation related to such a facility, installation or base, upon a determination by the authority that the study or investigation is critical to the expansion, retention or reuse of the facility, installation or base.

3. Any project as defined in Section 57-3-5, any business or enterprise determined to be in the furtherance of the public purposes of this act as determined by the authority or any facility related to such project each of which shall be, directly or indirectly, related to any military base or other military-related facility no longer operated by the United States armed services or the Mississippi National Guard.

(iii) Any enterprise to be maintained, improved or constructed in Tishomingo County by or for a National Aeronautics and Space Administration facility in such county.

(iv)1. Any major capital project with an initial capital investment from private sources of not less than Seven Hundred Fifty Million Dollars ($750,000,000.00) which will create at least three thousand (3,000) jobs meeting criteria established by the Mississippi Development Authority.

2. "Project" shall also include any ancillary development or business resulting from an enterprise operating a project as defined in item 1 of this paragraph (f)(iv), of which the authority is notified, within three (3) years from the date that the enterprise entered into commercial production, that the state has been selected as the site for the ancillary development or business.

(v) Any manufacturing, processing or industrial project determined by the authority, in its sole discretion, to contribute uniquely and significantly to the economic growth and development of the state, and which meets the following criteria:

1. The project shall create at least two thousand (2,000) net new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law.

2. The project and any facility related to the project shall include a total investment from private sources of not less than Sixty Million Dollars ($60,000,000.00), or from any combination of sources of not less than Eighty Million Dollars ($80,000,000.00).

(vi) Any real property owned or controlled by the National Aeronautics and Space Administration, the United States government, or any agency thereof, which is legally conveyed to the State of Mississippi or to the State of Mississippi for the benefit of the Mississippi Major Economic Impact Authority, its successors and assigns pursuant to Section 212 of Public Law 104-99, enacted January 26, 1996 (110 Stat. 26 at 38).

(vii) Any major capital project related to the establishment, improvement, expansion and/or other enhancement of any active duty military installation and having a minimum capital investment from any source or combination of sources other than the State of Mississippi of at least Forty Million Dollars ($40,000,000.00), and which will create at least four hundred (400) military installation related full-time jobs, which jobs may be military jobs, civilian jobs or a combination of military and civilian jobs. The authority shall require that binding commitments be entered into requiring that the minimum requirements for the project provided for in this subparagraph shall be met not later than July 1, 2008.

(viii) Any major capital project with an initial capital investment from any source or combination of sources of not less than Ten Million Dollars ($10,000,000.00) which will create at least eighty (80) full-time jobs which provide an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred thirty-five percent (135%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(ix) Any regional retail shopping mall with an initial capital investment from private sources in excess of One Hundred Fifty Million Dollars ($150,000,000.00), with a square footage in excess of eight hundred thousand (800,000) square feet, which will create at least seven hundred (700) full-time jobs with an average hourly wage of Eleven Dollars ($11.00) per hour. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(x) Any major capital project with an initial capital investment from any source or combination of sources of not less than Seventy-five Million Dollars ($75,000,000.00) which will create at least one hundred twenty-five (125) full-time jobs which provide an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least one hundred thirty-five percent (135%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located as determined by the Mississippi Department of Employment Security, whichever is the greater. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xi) Any potential major capital project that the authority has determined is feasible to recruit.

(xii) Any project built according to the specifications and federal provisions set forth by the National Aeronautics and Space Administration Center Operations Directorate at Stennis Space Center for the purpose of consolidating common services from National Aeronautics and Space

Administration centers in human resources, procurement, financial management and information technology located on land owned or controlled by the National Aeronautics and Space Administration, which will create at least four hundred seventy (470) full-time jobs.

(xiii) Any major capital project with an initial capital investment from any source or combination of sources of not less than Ten Million Dollars ($10,000,000.00) which will create at least two hundred fifty (250) full-time jobs. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xiv) Any major pharmaceutical facility with a capital investment of not less than Fifty Million Dollars ($50,000,000.00) made after July 1, 2002, through four (4) years after the initial date of any loan or grant made by the authority for such project, which will maintain at least seven hundred fifty (750) full-time employees. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xv) Any pharmaceutical manufacturing, packaging and distribution facility with an initial capital investment from any local or federal sources of not less than Five Hundred Thousand Dollars ($500,000.00) which will create at least ninety (90) full-time jobs. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xvi) Any major industrial wood processing facility with an initial capital investment of not less than One Hundred Million Dollars ($100,000,000.00) which will create at least one hundred twenty-five (125) full-time jobs which provide an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Thirty Thousand Dollars ($30,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xvii) Any technical, engineering, manufacturing-logistic service provider with an initial capital investment of not less than One Million Dollars ($1,000,000.00) which will create at least ninety (90) full-time jobs. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xviii) Any major capital project with an initial capital investment from any source or combination of sources other than the State of Mississippi of not less than Six Hundred Million Dollars ($600,000,000.00) which will create at least four hundred fifty (450) full-time jobs with an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Seventy Thousand Dollars ($70,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xix) Any major coal and/or petroleum coke gasification project with an initial capital investment from any source or combination of sources other than the State of Mississippi of not less than Eight Hundred Million Dollars ($800,000,000.00), which will create at least two hundred (200) full-time jobs with an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Forty-five Thousand Dollars ($45,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xx) Any planned mixed use development located on not less than four thousand (4,000) acres of land that will consist of commercial, recreational, resort, tourism and residential development with a capital investment from private sources of not less than Four Hundred Seventy-five Million Dollars ($475,000,000.00) in the aggregate in any one (1) or any combination of tourism projects that will create at least three thousand five hundred (3,500) jobs in the aggregate. For the purposes of this paragraph (f)(xx), the term "tourism project" means and has the same definition as that term has in Section 57-28-1. In order to meet the minimum capital investment required under this paragraph (f)(xx), at least Two Hundred Thirty-seven Million Five Hundred Thousand Dollars ($237,500,000.00) of such investment must be made not later than June 1, 2015, and the remainder of the minimum capital investment must be made not later than June 1, 2017. In order to meet the minimum number of jobs required to be created under this paragraph (f)(xx), at least one thousand seven hundred fifty (1,750) of such jobs must be created not later than June 1, 2015, and the remainder of the jobs must be created not later than June 1, 2017. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxi) Any enterprise owning or operating an automotive manufacturing and assembly plant and its affiliates for which construction begins after March 2, 2007, and not later than December 1, 2007, with an initial capital investment from private sources of not less than Five Hundred Million Dollars ($500,000,000.00) which will create at least one thousand five hundred (1,500) jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxii) Any enterprise owning or operating a major powertrain component manufacturing and assembly plant for which construction begins after May 11, 2007, and not later than December 1, 2007, with an initial capital investment from private sources of not less than Three Hundred Million Dollars ($300,000,000.00) which will create at least five hundred (500) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement that the average annual wages and taxable benefits of such jobs shall be at least one hundred twenty-five percent (125%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxiii) Any biological and agricultural defense project operated by an agency of the government of the United States with an initial capital investment of not less than Four Hundred Fifty Million Dollars ($450,000,000.00) from any source other than the State of Mississippi and its subdivisions, which will create at least two hundred fifty (250) new full-time jobs. All jobs created by the project must be held by persons eligible for employment in the United States under applicable state and federal law.

(xxiv) Any enterprise owning or operating an existing tire manufacturing plant which adds to such plant capital assets of not less than Twenty-five Million Dollars ($25,000,000.00) after January 1, 2009, and that maintains at least one thousand two hundred (1,200) full-time jobs in this state at one (1) location with an average annual salary, excluding benefits which are not subject to Mississippi income taxes, of at least Forty-five Thousand Dollars ($45,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxv) Any enterprise owning or operating a facility for the manufacture of composite components for the aerospace industry which will have an investment from private sources of not less than One Hundred Seventy-five Million Dollars ($175,000,000.00) by not later than December 31, 2015, and which will result in the full-time employment at the project site of not less than two hundred seventy-five (275) persons by December 31, 2011, and not less than four hundred twenty-five (425) persons by December 31, 2013, and not less than eight hundred (800) persons by December 31, 2017, all with an average annual compensation, excluding benefits which are not subject to Mississippi income taxes, of at least Fifty-three Thousand Dollars ($53,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxvi) Any enterprise owning or operating a facility for the manufacture of pipe which will have an investment from any source other than the State of Mississippi and its subdivisions of not less than Three Hundred Million Dollars ($300,000,000.00) by not later than December 31, 2015, and which will create at least five hundred (500) new full-time jobs within five (5) years after the start of commercial production and maintain such jobs for at least ten (10) years, all with an average annual compensation, excluding benefits which are not subject to Mississippi income taxes, of at least Thirty-two Thousand Dollars ($32,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxvii) Any enterprise owning or operating a facility for the manufacture of solar panels which will have an investment from any source other than the State of Mississippi and its subdivisions of not less than One Hundred Thirty-two Million Dollars ($132,000,000.00) by not later than December 31, 2015, and which will create at least five hundred (500) new full-time jobs within five (5) years after the start of commercial production and maintain such jobs for at least ten (10) years, all with an average annual compensation, excluding benefits which are not subject to Mississippi income taxes, of at least Thirty-four Thousand Dollars ($34,000.00). The authority shall require that binding commitments be entered into requiring that:

1. The minimum requirements for the project provided for in this subparagraph shall be met; and

2. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

(xxviii)1. Any enterprise owning or operating an automotive parts manufacturing plant and its affiliates for which construction begins after June 1, 2013, and not later than June 30, 2014, with an initial capital investment of not less than Three Hundred Million Dollars ($300,000,000.00) which will create at least five hundred (500) new full-time jobs meeting criteria established by the authority, which criteria shall include, but not be limited to, the requirement that such jobs must be held by persons eligible for employment in the United States under applicable state and federal law, and the requirement that the average annual wages and taxable benefits of such jobs shall be at least one hundred ten percent (110%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located as determined by the Mississippi Department of Employment Security, whichever is the lesser. The authority shall require that binding commitments be entered into requiring that:

a. The minimum requirements for the project provided for in this subparagraph shall be met; and

b. That if such commitments are not met, all or a portion of the funds provided by the state for the project as determined by the authority shall be repaid.

2. It is anticipated that the project defined in this subparagraph (xxviii) will expand in three (3) additional phases, will create an additional five hundred (500) full-time jobs meeting the above criteria in each phase, and will invest an additional Three Hundred Million Dollars ($300,000,000.00) per phase.

(g)(i) "Project area" means the project site, together with any area or territory within the state lying within sixty-five (65) miles of any portion of the project site whether or not such area or territory be contiguous; however, for the project defined in paragraph (f)(iv) of this section the term "project area" means any area or territory within the state. The project area shall also include all territory within a county if any portion of such county lies within sixty-five (65) miles of any portion of the project site. "Project site" means the real property on which the principal facilities of the enterprise will operate. The provisions of this subparagraph (i) shall not apply to a project as defined in paragraph (f)(xxi) of this section.

(ii) For the purposes of a project as defined in paragraph (f) (xxi) of this section, the term "project area" means the acreage authorized in the certificate of convenience and necessity issued by the Mississippi Development Authority to a regional economic development alliance under Section 57-64-1 et seq.

(h) "Public agency" means:

(i) Any department, board, commission, institution or other agency or instrumentality of the state;

(ii) Any city, town, county, political subdivision, school district or other district created or existing under the laws of the state or any public agency of any such city, town, county, political subdivision or district or any other public entity created or existing under local and private legislation;

(iii) Any department, commission, agency or instrumentality of the United States of America; and

(iv) Any other state of the United States of America which may be cooperating with respect to location of the project within the state, or any agency thereof.

(i) "State" means State of Mississippi.

(j) "Fee-in-lieu" means a negotiated fee to be paid by the project in lieu of any franchise taxes imposed on the project by Chapter 13, Title 27, Mississippi Code of 1972. The fee-in-lieu shall not be less than Twenty-five Thousand Dollars ($25,000.00) annually. A fee-in-lieu may be negotiated with an enterprise operating an existing project defined in paragraph (f)(iv)1 of this section; however, a fee-in-lieu shall not be negotiated for other existing enterprises that fall within the definition of the term "project."

(k) "Affiliate" means a subsidiary or related business entity which shares a common direct or indirect ownership with the enterprise owning or operating a project as defined in paragraph (f)(xxi) or paragraph (f)(xxviii) of this section. The subsidiary or related business must provide services directly related to the core activities of the project.

(*l*) "Tier One supplier" means a supplier of a project as defined in paragraph (f)(xxi) of this section that is certified by the enterprise owning the project and creates a minimum of fifty (50) new full-time jobs.

SOURCES: Laws, 1989, ch. 534, § 3; Laws, 1991, ch. 584, § 3; Laws, 1993, ch. 305, § 1; Laws, 1993, ch. 570, § 1; Laws, 1994, ch. 420, § 1; Laws, 1995, ch. 576, § 1; Laws, 1996, ch. 508, § 1; Laws, 1996, ch. 554, § 1; Laws, 1997, ch. 585, § 1; Laws, 2000, 2nd Ex Sess, ch. 1, § 42; Laws, 2000, 3rd Ex Sess, ch. 1, § 6; Laws, 2002, ch. 541, § 6; Laws, 2002, 1st Ex Sess, ch. 2, § 1; Laws, 2003, ch. 3, § 2; Laws, 2003, ch. 326, § 2; Laws, 2003, ch. 513, § 2; Laws, 2004, ch. 507, § 1; Laws, 2004, ch. 572, § 54; Laws, 2004, 3rd Ex Sess., § 91; Laws, 2005, ch. 315, § 1; Laws, 2006, ch. 538, § 7; Laws, 2006, 1st Ex Sess, ch. 2, § 1; Laws, 2007, ch. 303, § 1; Laws, 2007, 1st Ex Sess, ch. 1, § 1; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 54; Laws, 2008, 1st Ex Sess, ch. 45, § 1; Laws, 2009, ch. 302, § 1; Laws, 2009, ch. 303, § 1; Laws, 2009, ch. 464, § 1; Laws, 2010, ch. 301, § 1; Laws, 2010, ch. 405, § 1; reenacted without change, Laws, 2010, ch. 559, § 54; reenacted without change, Laws, 2011, ch. 471, § 55; reenacted without change, Laws, 2012, ch. 515, § 54; Laws, 2013, 1st Ex Sess, ch. 1, § 1, eff from and after passage (approved April 28, 2013.)

Joint Legislative Committee Note — Section 2 of ch. 326 Laws of 2003, effective from and after its passage (approved March 7, 2003), amended this section. Section 2 of ch. 513, Laws of 2003, effective from and after July 1, 2003, also amended this section. As set out above, this section reflects the language of Section 2 of ch. 513, Laws of 2003, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

Section 1 of ch. 507 Laws of 2004, effective from and after passage (approved May 4, 2004), amended this section. Section 54 of ch. 572, Laws of 2004, effective from and after July 1, 2004 (approved May 25, 2004), also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109 which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the July 8, 2004 meeting of the Committee.

Section 1 of ch. 464 Laws of 2009, effective from and after July 1, 2009 (approved March 30, 2009), amended this section. Section 1 of ch. 303, Laws of 2009, effective upon passage (approved February 11, 2009) and Section 1 of ch. 302, Laws of 2009, effective upon passage (approved February 3, 2009), also amended this section. As set out above, this section reflects the language of Section 1 of ch. 464, Laws of 2009, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

Section 54 of ch. 559, Laws of 2010, effective July 1, 2010 (approved May 12, 2010), amended this section. Section 1 of ch. 301, Laws of 2010, effective upon passage (approved January 12, 2010) and Section 1 of ch. 405, Laws of 2010, effective upon passage (approved March 17, 2010), also amended this section. As set out above, this section reflects the language of all three amendments pursuant to Section 1-1-109, which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee ratified the integration of these amendments as consistent with the legislative intent at its July 22, 2010, meeting.

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

"SECTION 60. This act shall stand repealed July 1, 2019."

Chapter 303, Laws of 2007, effective from and after passage, was approved on March 2, 2007.

Laws of 2008, 1st Extraordinary Session, ch. 45, § 1, amending subsection (f) to add (xxiii), provides in pertinent part:

"(xxiii) Any biological and agricultural defense project operated by an agency of the government of the United States with an initial capital investment of not less than Four Hundred Fifty Million Dollars ($450,000,000.00) from any source other than the State of Mississippi and its subdivisions, which will create at least two hundred fifty (250) new full-time jobs. All jobs created by the project must be held by persons eligible for employment in the United States under applicable state and federal law."

Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

"SECTION 60. This act shall stand repealed on July 1, 2019."

Amendment Notes — The 2013 amendment added (f)(xxviii); in (k), substituted "paragraph (f)(iv)1 of this section" for "Section 57-75-5(f)(iv)1" in the last sentence of (j); in (k), substituted "paragraph (f)(xxi) or paragraph (f)(xxviii) of this section" for "Section 57-75-5(f)(xxi)"; and in (*l*), substituted "paragraph (f)(xxi) of this section" for "Section 57-75-5(f)(xxi)."

Cross References — Regional economic development alliance may exercise the right of immediate possession to acquire land within the project area related to a project defined in (f)(xxi) of this section, see § 11-27-81.

Qualified business or industry exempt from taxation on income arising from a project as defined in (f)(xxi) of this section, see § 27-7-30.

Certain real and personal property located on a project site within the boundaries of a municipality as a result of a change in the boundaries of the municipality exempt from ad valorem taxation, see § 27-31-1.

Definition of "vendor tooling" applicable to a project defined in (f)(xxi) of this section, see § 27-31-48.

Ineligibility for certain forms of assistance and requirement to repay assistance received under this section by entities convicted of hiring illegal immigrants, see § 57-1-373.

Powers of a regional economic development alliance with regard to a project as defined in paragraph (f)(xxi) of this section, see § 57-64-19.

Authority of board of supervisors of any county that is a member of a regional economic development alliance to exercise the power of eminent domain to acquire property for project defined in paragraph (f)(i) or (d) until July 1, 2006, see § 57-64-31.

Maximum aggregate amount of bonds issued for projects as defined in this section, see § 57-75-15.

Mississippi Department of Employment Security generally, see §§ 71-5-101 et seq.

Federal Aspects — The Defense Base Closure and Realignment Act of 1990 is codified as 10 USCS § 2687 note.

ATTORNEY GENERAL OPINIONS

The proposed Meridian Naval Air Station project would not qualify for funding under this prong of Section 57-75- 5(f)(iii). Glover, January 4, 1996, A.G. Op. #95-0861.

If the Authority finds that there has been a closure or reduction of military operations at the installation, funds may be made available to the public agencies involved under the Mississippi Major Economic Impact Act for any project meeting the definition found in Section 57-3-5. Glover, January 4, 1996, A.G. Op. #95-0861.

All of the expenditures listed in Section 7 of an inducement agreement clearly came within the definition of "project" and "facility related to the project" and constituted lawful applications of the proceeds of the impact bonds issued for a project. Pittman, February 12, 1999, A.G. Op. #99-0042.

Public entities had legal authority to enter into project agreements and to perform their respective obligations thereunder, providing the governing bodies of each public entity adopted a resolution in regular form authorizing the same, subject to specified conditions, reservations and exceptions. Pittman, February 12, 1999, A.G. Op. #99-0042.

§ 57-75-7. Creation of Mississippi Major Economic Impact Authority; executive director.

(1) There is created within the Department of Economic Development a division to be known as the "Mississippi Major Economic Impact Authority" for the performance of essential public functions. The Executive Director of the Department of Economic Development or his designee shall be the director of the authority.

(2) The director shall administer, manage and direct the affairs and business of the authority.

SOURCES: Laws, 1989, ch. 534, § 4, eff from and after passage (approved April 17, 1989).

Editor's Note — Section 57-1-2 provides that executive director of the Mississippi Department of Economic Development shall mean the executive officer of the Mississippi Department of Economic and Community Development.

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-75-9. Action by authority on behalf of state; cooperation of public agencies with authority; contracts by authority or public agency.

(1) The authority is hereby designated and empowered to act on behalf of the state in submitting a siting proposal for any project eligible for assistance under this act. The authority is empowered to take all steps appropriate or necessary to effect the siting, development, and operation of the project within the state, including the negotiation of a fee-in-lieu. If the state is selected as

the preferred site for the project, the authority is hereby designated and empowered to act on behalf of the state and to represent the state in the planning, financing, development, construction and operation of the project or any facility related to the project, with the concurrence of the affected public agency. The authority may take affirmative steps to coordinate fully all aspects of the submission of a siting proposal for the project and, if the state is selected as the preferred site, to coordinate fully, with the concurrence of the affected public agency, the development of the project or any facility related to the project with private business, the United States government and other public agencies. All public agencies are encouraged to cooperate to the fullest extent possible to effectuate the duties of the authority; however, the development of the project or any facility related to the project by the authority may be done only with the concurrence of the affected public agency.

(2)(a) Contracts, by the authority or a public agency, including, but not limited to, design and construction contracts, for the acquisition, purchase, construction or installation of a project defined in Section 57-75-5(f)(iv)1 or any facility related to the project shall be exempt from the provisions of Section 31-7-13 if:

(i) The authority finds and records such finding on its minutes, that because of availability or the particular nature of a project, it would not be in the public interest or would less effectively achieve the purposes of this chapter to enter into such contracts on the basis of Section 31-7-13; and

(ii) The enterprise that is involved in the project concurs in such finding.

(b) When the requirements of paragraph (a) of this subsection are met:

(i) The requirements of Section 31-7-13 shall not apply to such contracts; and

(ii) The contracts may be entered into on the basis of negotiation.

(c) The enterprise involved with the project may, upon approval of the authority, negotiate such contracts in the name of the authority.

(d) The provisions of this subsection (2) shall not apply to contracts by the authority for excavation, fill dirt and compaction for the preparation of the site of a project as defined in Section 57-75-5(f)(iv)1 and such contracts may be entered into pursuant to subsection (3) of this section.

(3)(a) Contracts by the authority for excavation, fill dirt and compaction for the preparation of the site of a project defined in Section 57-75-5(f)(iv)1 shall be exempt from the provisions of Section 31-7-13 and the following procedure shall be followed in the award of such contracts:

(i) The authority shall advertise for a period of time to be set by the authority, but in no event less than one (1) business day, the date, time and place of a meeting with the authority to receive specifications on a request for proposals on excavation, fill dirt and compaction for the preparation of the site of the project defined in Section 57-75-5(f)(iv)1.

(ii) The authority shall set the minimum qualifications necessary to be considered for award of the contract and the advertisement shall set forth such minimum qualifications.

(iii) Following the meeting the authority shall, in its discretion, select one or more of the qualified contractors with whom to negotiate or award the contract. The decision of the authority concerning the selection of the contractor shall be final.

(b) Contracts by the authority or a public agency for site preparation, utilities, real estate improvements, wastewater or for public works for a project defined in Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii) shall be exempt from the provisions of Section 31-7-13 and the following procedure shall be followed in the award of such contracts:

(i) The authority or the public agency shall advertise for a period of time to be set by the authority or the public agency, but in no event less than one (1) nor more than five (5) calendar days, the date, time and place of a meeting with the authority or the public agency to receive specifications on the preparation of the site of the project defined in Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii).

(ii) The authority or the public agency shall set the minimum qualifications necessary to be considered for award of the contract and the advertisement shall set forth such minimum qualifications.

(iii) Following the meeting the authority or the public agency shall, in its discretion, select one or more of the qualified contractors with whom to negotiate or award the contract. The decision of the authority or the public agency concerning the selection of the contractor shall be final.

(c) Contracts by a public agency for site preparation, utilities, real estate improvements, infrastructure, roads or for public works for a project defined in Section 57-75-5(f)(xxiii) may be exempt from the provisions of Section 31-7-13 and the following procedure shall be followed in the award of contracts:

(i) The public agency shall advertise for a period of time to be set by the public agency, but in no event less than one (1) nor more than five (5) calendar days, the date, time and place of a meeting with the public agency to receive specifications on site preparation, utilities, real estate improvements, infrastructure, roads or for public works related to the project defined in Section 57-75-5(f)(xxiii).

(ii) The public agency shall set the minimum qualifications necessary to be considered for award of the contract and the advertisement shall set forth such minimum qualifications.

(iii) Following the meeting the public agency shall, in its discretion, select one or more of the qualified contractors with whom to negotiate or award the contract. The decision of the public agency concerning selection of the contractor shall be final.

(4)(a) Contracts, by the authority or a public agency, including, but not limited to, design and construction contracts, for the acquisition, purchase, construction or installation of a project defined in Section 57-75-5(f)(xxvi), Section 57-75-5(f)(xxvii) or Section 57-75-5(f)(xxviii) shall be exempt from the provisions of Section 31-7-13 if:

(i) The authority finds and records such finding on its minutes, that because of availability or the particular nature of a project, it would not be in the public interest or would less effectively achieve the purposes of this chapter to enter into such contracts on the basis of Section 31-7-13; and

(ii) The enterprise that is involved in the project concurs in such finding.

(b) When the requirements of paragraph (a) of this subsection are met:

(i) The requirements of Section 31-7-13 shall not apply to such contracts; and

(ii) The contracts may be entered into on the basis of negotiation.

SOURCES: Laws, 1989, ch. 534, § 5; Laws, 2000, 2nd Ex Sess, ch. 1, § 43; Laws, 2000, 3rd Ex Sess, ch. 1, § 7; Laws, 2007, ch. 303, § 2; Laws, 2007, 1st Ex Sess, ch. 1, § 2; Laws, 2008, 1st Ex Sess, ch. 45, § 2; Laws, 2010, ch. 301, § 2; Laws, 2010, ch. 405, § 2; Laws, 2013, 1st Ex Sess, ch. 1, § 2, eff from and after passage (approved April 28, 2013.)

Joint Legislative Committee Note — Section 2 of ch. 405, Laws of 2010, effective upon passage (approved March 17, 2010), amended this section. Section 2 of ch. 301, Laws of 2010, effective upon passage (approved January 12, 2010), also amended this section. As set out above, this section reflects the language of Section 2 of ch. 405, Laws of 2010, which contains language that specifically provides that it supersedes § 75-75-9 as amended by Laws of 2010, ch. 301.

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

Amendment Notes — The 2013 amendment inserted "or Section 57-75-5(f)(xxviii)" in (4)(a) and made minor stylistic changes.

§ 57-75-11. General powers and duties of authority.

The authority, in addition to any and all powers now or hereafter granted to it, is empowered and shall exercise discretion and the use of these powers depending on the circumstances of the project or projects:

(a) To maintain an office at a place or places within the state.

(b) To employ or contract with architects, engineers, attorneys, accountants, construction and financial experts and such other advisors, consultants and agents as may be necessary in its judgment and to fix and pay their compensation.

(c) To make such applications and enter into such contracts for financial assistance as may be appropriate under applicable federal or state law.

(d) To apply for, accept and utilize grants, gifts and other funds or aid from any source for any purpose contemplated by the act, and to comply, subject to the provisions of this act, with the terms and conditions thereof.

(e)(i) To acquire by purchase, lease, gift, or in other manner, including quick-take eminent domain, or obtain options to acquire, and to own, maintain, use, operate and convey any and all property of any kind, real, personal, or mixed, or any interest or estate therein, within the project area, necessary for the project or any facility related to the project. The provisions of this paragraph that allow the acquisition of property by quick-take eminent domain shall be repealed by operation of law on July 1, 1994; and

(ii) Notwithstanding any other provision of this paragraph (e), from and after November 6, 2000, to exercise the right of immediate possession pursuant to the provisions of Sections 11-27-81 through 11-27-89 for the purpose of acquiring land, property and/or rights-of-way in the county in which a project as defined in Section 57-75-5(f)(iv)1 is located, that are necessary for such project or any facility related to the project.

(f) To acquire by purchase or lease any public lands and public property, including sixteenth section lands and lieu lands, within the project area, which are necessary for the project. Sixteenth section lands or lieu lands acquired under this act shall be deemed to be acquired for the purposes of industrial development thereon and such acquisition will serve a higher public interest in accordance with the purposes of this act.

(g) If the authority identifies any land owned by the state as being necessary, for the location or use of the project, or any facility related to the project, to recommend to the Legislature the conveyance of such land or any interest therein, as the Legislature deems appropriate.

(h) To make or cause to be made such examinations and surveys as may be necessary to the planning, design, construction and operation of the project.

(i) From and after the date of notification to the authority by the enterprise that the state has been finally selected as the site of the project, to acquire by condemnation and to own, maintain, use, operate and convey or otherwise dispose of any and all property of any kind, real, personal or mixed, or any interest or estate therein, within the project area, necessary for the project or any facility related to the project, with the concurrence of the affected public agency, and the exercise of the powers granted by this act, according to the procedures provided by Chapter 27, Title 11, Mississippi Code of 1972, except as modified by this act.

(i) Except as otherwise provided in subparagraph (iii) of this paragraph (i), in acquiring lands by condemnation, the authority shall not acquire minerals or royalties in minerals unless a competent registered professional engineer shall have certified that the acquisition of such minerals and royalties in minerals is necessary for purposes of the project; provided that limestone, clay, chalk, sand and gravel shall not be considered as minerals for the purposes of subparagraphs (i) and (ii) of this paragraph (i);

(ii) Unless minerals or royalties in minerals have been acquired by condemnation or otherwise, no person or persons owning the drilling rights or the right to share in production of minerals shall be prevented from exploring, developing, or producing oil or gas with necessary rights-of-way for ingress and egress, pipelines and other means of transporting interests on any land or interest therein of the authority held or used for the purposes of this act; but any such activities shall be under such reasonable regulation by the authority as will adequately protect the project contemplated by this act as provided in paragraph (r) of this section; and

(iii) In acquiring lands by condemnation, including the exercise of immediate possession, for a project, as defined in Section 57-75-5(f)(iv)1, the authority may acquire minerals or royalties in minerals.

(j) To negotiate the necessary relocation or rerouting of roads and highways, railroad, telephone and telegraph lines and properties, electric power lines, pipelines and related facilities, or to require the anchoring or other protection of any of these, provided due compensation is paid to the owners thereof or agreement is had with such owners regarding the payment of the cost of such relocation, and to acquire by condemnation or otherwise easements or rights-of-way for such relocation or rerouting and to convey the same to the owners of the facilities being relocated or rerouted in connection with the purposes of this act.

(k) To negotiate the necessary relocation of graves and cemeteries and to pay all reasonable costs thereof.

(*l*) To perform or have performed any and all acts and make all payments necessary to comply with all applicable federal laws, rules or regulations including, but not limited to, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USCS 4601, 4602, 4621 to 4638, and 4651 to 4655) and relocation rules and regulations promulgated by any agency or department of the federal government.

(m) To construct, extend, improve, maintain, and reconstruct, to cause to be constructed, extended, improved, maintained, and reconstructed, and to use and operate any and all components of the project or any facility related to the project, with the concurrence of the affected public agency, within the project area, necessary to the project and to the exercise of such powers, rights, and privileges granted the authority.

(n) To incur or defray any designated portion of the cost of any component of the project or any facility related to the project acquired or constructed by any public agency.

(o)(i) To lease, sell or convey any or all property acquired by the authority under the provisions of this act to the enterprise, its successors or assigns, and/or any entity for purposes in furtherance of economic development as determined by the authority, and in connection therewith to pay the costs of title search, perfection of title, title insurance and recording fees as may be required. The authority may provide in the instrument conveying such property a provision that such property shall revert to the authority if, as and when the property is declared by the transferee to be no longer needed.

(ii) To lease, sell, transfer or convey on any terms agreed upon by the authority any or all real and personal property, improvements, leases, funds and contractual obligations of a project as defined in Section 57-75-5(f)(vi) and conveyed to the State of Mississippi by a Quitclaim Deed from the United States of America dated February 23, 1996, filed of record at pages 511 to 524, Deed Book Number B179, Chancery Clerk's Office, Tishomingo County, Mississippi, to any governmental authority located within the geographic boundaries of the county wherein such project exists upon agreement of such governmental authority to undertake and assume from the State of Mississippi all obligations and responsibilities in connection with ownership and operation of the project. Property leased, sold, transferred or otherwise conveyed by the authority under this paragraph (o) shall be used only for economic development purposes.

(p) To enter into contracts with any person or public agency, including, but not limited to, contracts authorized by Section 57-75-17, in furtherance of any of the purposes authorized by this act upon such consideration as the authority and such person or public agency may agree. Any such contract may extend over any period of time, notwithstanding any rule of law to the contrary, may be upon such terms as the parties thereto shall agree, and may provide that it shall continue in effect until bonds specified therein, refunding bonds issued in lieu of such bonds, and all other obligations specified therein are paid or terminated. Any such contract shall be binding upon the parties thereto according to its terms. Such contracts may include an agreement to reimburse the enterprise, its successors and assigns for any assistance provided by the enterprise in the acquisition of real property for the project or any facility related to the project.

(q) To establish and maintain reasonable rates and charges for the use of any facility within the project area owned or operated by the authority, and from time to time, to adjust such rates and to impose penalties for failure to pay such rates and charges when due.

(r) To adopt and enforce with the concurrence of the affected public agency all necessary and reasonable rules and regulations to carry out and effectuate the implementation of the project and any land use plan or zoning classification adopted for the project area, including, but not limited to, rules, regulations, and restrictions concerning mining, construction, excavation or any other activity the occurrence of which may endanger the structure or operation of the project. Such rules may be enforced within the project area and without the project area as necessary to protect the structure and operation of the project. The authority is authorized to plan or replan, zone or rezone, and make exceptions to any regulations, whether local or state, with the concurrence of the affected public agency which are inconsistent with the design, planning, construction or operation of the project and facilities related to the project.

(s) To plan, design, coordinate and implement measures and programs to mitigate impacts on the natural environment caused by the project or any facility related to the project.

(t) To develop plans for technology transfer activities to ensure private sector conduits for exchange of information, technology and expertise related to the project to generate opportunities for commercial development within the state.

(u) To consult with the State Department of Education and other public agencies for the purpose of improving public schools and curricula within the project area.

(v) To consult with the State Board of Health and other public agencies for the purpose of improving medical centers, hospitals and public health centers in order to provide appropriate health care facilities within the project area.

(w) To consult with the Office of Minority Business Enterprise Development and other public agencies for the purpose of developing plans for technical assistance and loan programs to maximize the economic impact related to the project for minority business enterprises within the State of Mississippi.

(x) To deposit into the "Yellow Creek Project Area Fund" created pursuant to Section 57-75-31:

(i) Any funds or aid received as authorized in this section for the project described in Section 57-75-5(f)(vi), and

(ii) Any funds received from the sale or lease of property from the project described in Section 57-75-5(f)(vi) pursuant to the powers exercised under this section.

(y) To manage and develop the project described in Section 57-75-5(f)(vi).

(z) To promulgate rules and regulations necessary to effectuate the purposes of this act.

(aa) To negotiate a fee-in-lieu with the owners of the project.

(bb) To enter into contractual agreements to warrant any site work for a project defined in Section 57-75-5(f)(iv)1; provided, however, that the aggregate amount of such warranties shall not exceed Fifteen Million Dollars ($15,000,000.00).

(cc) To provide grant funds to an enterprise operating a project defined in Section 57-75-5(f)(iv)1 in an amount not to exceed Thirty-nine Million Dollars ($39,000,000.00).

(dd)(i) To own surface water transmission lines constructed with the proceeds of bonds issued pursuant to this act and in connection therewith to purchase and provide water to any project defined in Section 57-75-5(f)(iv) and to certificated water providers; and

(ii) To lease such surface water transmission lines to a public agency or public utility to provide water to such project and to certificated water providers.

(ee) To provide grant funds to an enterprise operating a project defined in Section 57-75-5(f)(v) or, in connection with a facility related to such a project, for job training, recruiting and infrastructure.

(ff) To enter into negotiations with persons proposing projects defined in Section 57-75-5(f)(xi) and execute acquisition options and conduct planning, design and environmental impact studies with regard to such project.

(gg) To establish such guidelines, rules and regulations as the authority may deem necessary and appropriate from time to time in its sole discretion, to promote the purposes of this act.

(hh) In connection with projects defined in Section 57-75-5(f)(ii):

(i) To provide grant funds or loans to a public agency or an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(ii) in amounts not to exceed the amount authorized in Section 57-75-15(3)(b);

(ii) To supervise the use of all such grant funds or loans; and

(iii) To requisition money in the Mississippi Major Economic Impact Authority Revolving Loan Fund in connection with such loans.

(ii) In connection with projects defined under Section 57-75-5(f)(xiv):

(i) To provide grant funds or loans to an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(xiv); however, the aggregate amount of any such loans under this paragraph (ii) shall not exceed Eighteen Million Dollars ($18,000,000.00) and the aggregate amount of any such grants under this paragraph (ii) shall not exceed Six Million Dollars ($6,000,000.00);

(ii) To supervise the use of all such grant funds or loans; and

(iii) Notwithstanding any provision of this act to the contrary, such loans shall be for a term not to exceed twenty (20) years as may be determined by the authority, shall bear interest at such rates as may be determined by the authority, shall, in the sole discretion of the authority, be secured in an amount and a manner as may be determined by the authority.

(jj) In connection with projects defined under Section 57-75-5(f)(xviii):

(i) To provide grant funds of Twenty-five Million Dollars ($25,000,000.00) to an enterprise owning or operating a project defined in Section 57-75-5(f)(xviii) to be used for real estate improvements and which may be disbursed as determined by the authority;

(ii) To provide loans to an enterprise owning or operating a project defined in Section 57-75-5(f)(xviii) or make payments to a lender providing financing to the enterprise; subject to the following provisions:

1. Not more than Ten Million Dollars ($10,000,000.00) may be loaned to such an enterprise for the purpose of defraying costs incurred by the enterprise for site preparation and real property improvements during the construction of the project in excess of budgeted costs; however, the amount of any such loan shall not exceed fifty percent (50%) of such excess costs;
2. Not more than Sixty Million Dollars ($60,000,000.00) may be loaned to such an enterprise or paid to a lender providing financing to the enterprise for purposes determined appropriate by the authority, and the enterprise shall be obligated to repay the amount of the loan or payment plus any expenses incurred by the state as a result of the issuance of bonds pursuant to Section 57-75-15(3)(p); however, no such loan or payment may be made before the beginning of the fifth year after issuance by the enterprise of debt in like amount the proceeds of which are to be used in connection with the project;

(iii) To supervise the use of all such loan funds;

(iv) Loans under this paragraph (jj) may be for any term determined appropriate by the authority provided that the payments on any loan must be in an amount sufficient to pay the state's debt service on bonds issued for the purpose of providing funds for such a loan; and

(v) The repayment obligation of the enterprise for any loan or payment authorized under this paragraph (jj) shall, in the discretion of the authority, be secured in an amount and a manner as may be determined by the authority.

(kk) In connection with projects defined in Section 57-75-5(f)(xxi) or a facility related to such a project:

(i) To provide grant funds to reimburse public agencies, Itawamba Community College, Northeast Mississippi Community College, and/or East Mississippi Community College, public or private nonprofits or an enterprise owning or operating a project as defined in Section 57-75-5(f)(xxi) for site preparation, real estate improvements, utilities, railroads, roads, infrastructure, job training, recruiting and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(s);

(ii) To supervise the use of all such grant funds so reimbursed; and

(iii) To enter into contractual agreements to warrant site preparation and availability for a project defined in Section 57-75-5(f)(xxi).

(*ll*) In connection with a project related to a Tier One supplier:

(i) To provide grant funds to reimburse public agencies, public or private nonprofits and Tier One suppliers for site preparation, real estate improvements, utilities, railroads, roads, infrastructure, job training, recruiting and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(t);

(ii) To supervise the use of all such grant funds so reimbursed.

(mm) In connection with projects defined in Section 57-75-5(f)(xxii) or a facility related to such a project:

(i) To provide grant funds to reimburse public agencies or an enterprise owning or operating a project as defined in Section 57-75-5(f)(xxii) for site preparation, real estate improvements, utilities, fire protection, wastewater, railroads, roads, infrastructure, job training, recruiting and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(u); and

(ii) To supervise the use of all such grant funds so reimbursed.

(nn) It is the policy of the authority and the authority is authorized to accommodate and support any enterprise owning or operating a project defined in Section 57-75-5(f)(xviii), 57-75-5(f)(xxi), 57-75-5(f)(xxii), 57-75-5(f)(xxvi), 57-75-5(f)(xxvii) or 57-75-5(f)(xxviii) or an enterprise developing or owning a project defined in Section 57-75-5(f)(xx), that wishes to have a program of diversity in contracting, and/or that wishes to do business with or cause its prime contractor to do business with Mississippi companies, including those companies that are small business concerns owned and controlled by socially and economically disadvantaged individuals. The term "socially and economically disadvantaged individuals" shall have the meaning ascribed to such term under Section 8(d) of the Small Business Act (15 USCS 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this paragraph.

(oo) To provide grant funds to an enterprise developing or owning a project defined in Section 57-75-5(f)(xx) for reimbursement of costs incurred by such enterprise for infrastructure improvements in the initial phase of development of the project, upon dedication of such improvements to the appropriate public agency.

(pp) In connection with projects defined in Section 57-75-5(f)(xxiii):

(i) To provide grant funds to reimburse public agencies or an enterprise operating a project as defined in Section 57-75-5(f)(xxiii) for site preparation, utilities, real estate improvements, infrastructure, roads, public works, job training and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(v); and

(ii) To supervise the use of all such grant funds so reimbursed.

(qq)(i) To provide grant funds for the expansion of a publicly owned building for the project defined in Section 57-75-5(f)(xxiv) or loans to an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(xxiv) for the purchase and/or relocation of equipment, or for any other purpose related to the project as approved by the authority; however, the aggregate amount of any such loans under this paragraph (qq) shall not exceed Six Million Dollars ($6,000,000.00) and the aggregate amount of any such grants under this paragraph (qq) shall not exceed Seven Million Dollars ($7,000,000.00);

(ii) To supervise the use of all such grant funds or loans; and

(iii) Notwithstanding any provision of this act to the contrary, such loans shall be for a term not to exceed ten (10) years as may be determined by the authority, shall bear a rate of interest to be determined by the authority, and shall be secured in an amount and a manner as may be determined by the authority.

(rr)(i) To provide grant funds to an enterprise owning or operating a project defined in Section 57-75-5(f)(xxv) for reimbursement of costs incurred by the enterprise in reconfiguring the manufacturing plant and for the purchase of equipment, or for any other purpose related to the project as approved by the authority;

(ii) To supervise the use of all such grant funds.

(ss) In connection with projects defined under Section 57-75-5(f)(xxvi):

(i) To provide grant funds and/or loans to a public agency in an amount not to exceed Fifteen Million Dollars ($15,000,000.00) for the construction of a publicly owned building to be leased by the enterprise owning or operating the project;

(ii) To provide loan guarantees in an amount not to exceed the total cost of the project for which financing is sought or Twenty Million Dollars ($20,000,000.00), whichever is less, for the purpose of encouraging the extension of conventional financing and the issuance of letters of credit to the enterprise owning or operating the project;

(iii) In connection with any loan guarantee made pursuant to this paragraph, to make payments to lenders providing financing to the enterprise owning or operating the project and the enterprise shall be obligated to repay the amount of the payment plus any expenses incurred by the state as a result of the issuance of bonds pursuant to Section 57-75-15(3)(y);

(iv) To supervise the use of all such grant funds, loan funds or payments; and

(v) To require the enterprise owning or operating the project to provide security for the repayment obligation for any loan guarantee authorized under this paragraph in an amount and in a manner as may be determined by the authority.

(tt) In connection with projects defined under Section 57-75-5(f)(xxvii):

(i) To provide loans to a public agency in an amount not to exceed Fifty Million Dollars ($50,000,000.00) for the construction of a publicly owned building and acquisition of equipment to be leased by the enterprise owning or operating the project; and

(ii) To supervise the use of all such loan funds.

(uu) In connection with projects defined under Section 57-75-5(f)(xxviii):

(i) To provide grant funds to reimburse public agencies or an enterprise operating a project for site preparation, utilities, real estate purchase and improvements, infrastructure, roads, rail improvements, public works, job training and any other expenses approved by the authority in amounts not to exceed the amount authorized in Section 57-75-15(3)(aa); and

(ii) To supervise the use of all such grant funds so reimbursed.

(vv)(i) In addition to any other requirements or conditions under this chapter, the authority shall require that any application for assistance regarding a project under this chapter include, at a minimum:

1. A two-year business plan (which shall include pro forma balance sheets, income statements and monthly cash flow statements);

2. Financial statements or tax returns for the three (3) years immediately prior to the application (if the project is a new company or enterprise, personal financial statements or tax returns will be required);

3. Credit reports on all persons or entities with a twenty percent (20%) or greater interest in the project;

4. Data supporting the expertise of the project's principals;

5. A cost-benefit analysis of the project performed by a state institution of higher learning or other entity selected by the authority; and

6. Any other information required by the authority.

(ii) The authority shall require that binding commitments be entered into requiring that:

1. The applicable minimum requirements of this chapter and such other requirements as the authority considers proper shall be met; and

2. If the agreed upon commitments are not met, all or a portion of the funds provided under this chapter as determined by the authority shall be repaid.

(iii) Where appropriate, in the discretion of the authority, the authority shall acquire a security interest in or other lien upon any applicable collateral.

(iv) The provisions of this paragraph (vv) shall not apply to a project defined in Section 57-75-5(f)(xxiii).

SOURCES: Laws, 1989, ch. 534, § 6; Laws, 1993, ch. 305, § 2; Laws, 1996, ch. 554 § 2; Laws, 2003, ch. 326, § 3; Laws, 2003, ch. 441, § 1; Laws, 2003, ch. 513, § 3; Laws, 2004, 3rd Ex Sess., ch. 1, § 92; Laws, 2005, ch. 315, § 2; Laws, 2005, 4th Ex Sess, ch. 1, § 1; Laws, 2005, 5th Ex Sess, ch. 1, § 1; Laws, 2006, 1st Ex Sess, ch. 2, § 2; Laws, 2007, ch. 303, § 3; Laws, 2007, 1st Ex Sess, ch. 1, § 3; Laws, 2008, 1st Ex Sess, ch. 45, § 3; Laws, 2009, ch. 302, § 2; Laws, 2009, ch. 303, § 2; Laws, 2010, ch. 301, § 3; Laws, 2010, ch. 405, § 3; Laws, 2012, ch. 438, § 1; Laws, 2013, 1st Ex Sess, ch. 1, § 3, eff from and after passage (approved April 28, 2013.)

Joint Legislative Committee Note — Section 3 of ch. 326 Laws of 2003, effective from and after its passage (approved March 7, 2003), amended this section. Section 1 of ch. 441, Laws of 2003, effective July 1, 2003, and Section 3 of ch. 513 Laws of 2003, effective July 1, 2003, also amended this section. As set out above, this section reflects the language of Section 3 of ch. 513, Laws of 2003, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

Section 2 of ch. 303, Laws of 2009, effective upon passage (approved February 11, 2009), amended this section. Section 2 of ch. 302, Laws of 2009, effective upon passage (approved February 3, 2009), also amended this section. As set out above, this section reflects the language of Section 2 of ch. 303, Laws of 2009, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

Section 3 of ch. 405 Laws of 2010, effective upon passage (approved March 17, 2010), amended this section. Section 3 of ch. 301, Laws of 2010, effective upon passage (approved January 12, 2010), also amended this section. As set out above, this section reflects the language of Section 3 of ch. 405, Laws of 2010,which contains language that specifically provides that it superseded § 57-75-11 as amended by Laws of 2010, ch. 301.

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

Section 57-75-31 referred to in (x), was repealed by operation of law, effective from and after July 1, 2004.

Amendment Notes — The 2013 amendment inserted "or 57-75-5(f)(xxviii)" in (nn); added (uu); redesignated former (uu) as (vv) and substituted "paragraph (vv)" for "paragraph (uu)(iv)."

Cross References — Quick-take eminent domain, generally, see §§ 11-27-81 et seq.

Sixteenth section and lieu lands generally, see §§ 29-3-1.

State Department of Education generally, see 37-3-1 et seq.

State Board of Health generally, see §§ 41-3-1 et seq.

Ineligibility for certain forms of assistance and requirement to repay assistance received under this section by entities convicted of hiring illegal immigrants, see § 57-1-373.

Office of Minority Business Enterprises, see § 57-69-5.

Federal Aspects — Small Business Act generally, see 15 USCS §§ 631 et seq.

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 USCS §§ 4601, 4602, 4621-4638, and 4651 to 4655.

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Mississippi Major Economic Impact Authority may sell, lease or convey property acquired by the Authority to an industrial enterprise to promote the purpose of encouraging economic development and for such nominal or other consideration as the Authority and enterprise may agree. Pittman, May 23, 1997, A.G. Op. #97-0283.

A business trust created by a corporation for taxation, accounting, and financing purposes directly related to a project was an entity with which the Mississippi Major Economic Impact Authority could contract; the authority could in its discretion enter into a lease of the project site with the business trust so long as the memorandum of understanding between the authority and the corporation was amended to reflect the substitution of the original lease with the new lease, with it being made clear in the amendment and/or new lease that the corporation's obligations to the state under the memorandum of understanding were not compromised or abrogated by the new lease. Pittman, Mar. 23, 2001, A.G. Op. #01-0148.

The entity actually operating a project receives a grant under the statute. Pittman, Mar. 23, 2001, A.G. Op. #01-0148.

The Mississippi Major Economic Impact Authority may transfer the buffer zone properties [part of the Yellow Creek Project] to the County of Tishomingo under the authority granted to the agency pursuant to subdivisions (o)(i) and (ii) of this section. However, any use of the transferred land for purposes other than economic development would be prohibited. Hale, July 7, 2003, A.G. Op. 03-0297.

§ 57-75-13. Powers and duties of Board of Trustees of State Institutions of Higher Learning.

The Board of Trustees of State Institutions of Higher Learning is hereby authorized to support the project by creating institutes and developing curricula of direct benefit to the enterprise. Upon notification to the authority by the enterprise that the state has been selected as the site of the project, the Board of Trustees of State Institutions of Higher Learning may establish and create programs to enhance the project's success.

SOURCES: Laws, 1989, ch. 534, § 7, eff from and after passage (approved April 17, 1989).

Cross References — Powers and duties of board of trustees of State Institutions of Higher Learning generally, see § 37-101-15.

§ 57-75-15. Powers and duties of State Bond Commission.

[Through June 30, 2018, this section shall read as follows:]

(1) Upon notification to the authority by the enterprise that the state has been finally selected as the site for the project, the State Bond Commission shall have the power and is hereby authorized and directed, upon receipt of a declaration from the authority as hereinafter provided, to borrow money and issue general obligation bonds of the state in one or more series for the purposes herein set out. Upon such notification, the authority may thereafter

from time to time declare the necessity for the issuance of general obligation bonds as authorized by this section and forward such declaration to the State Bond Commission, provided that before such notification, the authority may enter into agreements with the United States government, private companies and others that will commit the authority to direct the State Bond Commission to issue bonds for eligible undertakings set out in subsection (4) of this section, conditioned on the siting of the project in the state.

(2) Upon receipt of any such declaration from the authority, the State Bond Commission shall verify that the state has been selected as the site of the project and shall act as the issuing agent for the series of bonds directed to be issued in such declaration pursuant to authority granted in this section.

(3)(a) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(i) shall not exceed an aggregate principal amount in the sum of Sixty-seven Million Three Hundred Fifty Thousand Dollars ($67,350,000.00).

(b) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(ii) shall not exceed Sixty-three Million Dollars ($63,000,000.00). The authority, with the express direction of the State Bond Commission, is authorized to expend any remaining proceeds of bonds issued under the authority of this act prior to January 1, 1998, for the purpose of financing projects as then defined in Section 57-75-5(f)(ii) or for any other projects as defined in Section 57-75-5(f)(ii), as it may be amended from time to time. No bonds shall be issued under this paragraph (b) until the State Bond Commission by resolution adopts a finding that the issuance of such bonds will improve, expand or otherwise enhance the military installation, its support areas or military operations, or will provide employment opportunities to replace those lost by closure or reductions in operations at the military installation or will support critical studies or investigations authorized by Section 57-75-5(f)(ii).

(c) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(iii) shall not exceed Ten Million Dollars ($10,000,000.00). No bonds shall be issued under this paragraph after December 31, 1996.

(d) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(iv) shall not exceed Three Hundred Fifty-one Million Dollars ($351,000,000.00). An additional amount of bonds in an amount not to exceed Twelve Million Five Hundred Thousand Dollars ($12,500,000.00) may be issued under the authority of this section for the purpose of defraying costs associated with the construction of surface water transmission lines for a project defined in Section 57-75-5(f)(iv) or for any facility related to the project. No bonds shall be issued under this paragraph after June 30, 2005.

(e) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(v) and for facilities related to such projects shall not exceed Thirty-eight Million Five Hundred Thousand Dollars ($38,500,000.00). No bonds shall be issued under this paragraph after April 1, 2005.

(f) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(vii) shall not exceed Five Million Dollars ($5,000,000.00). No bonds shall be issued under this paragraph after June 30, 2006.

(g) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(viii) shall not exceed Four Million Five Hundred Thousand Dollars ($4,500,000.00). No bonds shall be issued under this paragraph after June 30, 2008.

(h) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(ix) shall not exceed Five Million Dollars ($5,000,000.00). No bonds shall be issued under this paragraph after June 30, 2007.

(i) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(x) shall not exceed Five Million Dollars ($5,000,000.00). No bonds shall be issued under this paragraph after April 1, 2005.

(j) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xii) shall not exceed Thirty-three Million Dollars ($33,000,000.00). The amount of bonds that may be issued under this paragraph for projects defined in Section 57-75-5(f)(xii) may be reduced by the amount of any federal or local funds made available for such projects. No bonds shall be issued under this paragraph until local governments in or near the county in which the project is located have irrevocably committed funds to the project in an amount of not less than Two Million Five Hundred Thousand Dollars ($2,500,000.00) in the aggregate; however, this irrevocable commitment requirement may be waived by the authority upon a finding that due to the unforeseen circumstances created by Hurricane Katrina, the local governments are unable to comply with such commitment. No bonds shall be issued under this paragraph after June 30, 2008.

(k) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xiii) shall not exceed Three Million Dollars ($3,000,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(*l*) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xiv) shall not exceed Twenty-four Million Dollars ($24,000,000.00). No bonds shall be issued under this paragraph until local governments in the county in which the project is located have irrevocably committed funds to the project in an amount of not less than Two Million Dollars ($2,000,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(m) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xv) shall not exceed Five Hundred Thousand Dollars ($500,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(n) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xvi) shall not exceed Ten Million Dollars ($10,000,000.00). No bonds shall be issued under this paragraph after June 30, 2011.

(o) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xvii) shall not exceed Three Million Five Hundred Thousand Dollars ($3,500,000.00). No bonds shall be issued under this paragraph after June 30, 2010.

(p) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xviii) shall not exceed Ninety-six Million Dollars ($96,000,000.00). No bonds shall be issued under this paragraph after June 30, 2011.

(q) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xix) shall not exceed Fifteen Million Dollars ($15,000,000.00). No bonds shall be issued under this paragraph after June 30, 2012.

(r) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xx) shall not exceed Twenty-three Million Dollars ($23,000,000.00). No bonds shall be issued under this paragraph after April 25, 2013.

(s) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxi) shall not exceed Two Hundred Ninety-three Million Nine Hundred Thousand Dollars ($293,900,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(t) Bonds issued under the authority of this section for Tier One suppliers shall not exceed Thirty Million Dollars ($30,000,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(u) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxii) shall not exceed Forty-eight Million Four Hundred Thousand Dollars ($48,400,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(v) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxiii) shall not exceed Eighty-eight Million Two Hundred Fifty Thousand Dollars ($88,250,000.00). No bonds shall be issued under this paragraph after July 1, 2009.

(w) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxiv) shall not exceed Thirteen Million Dollars ($13,000,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(x) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxv) shall not exceed Twenty-five Million Dollars ($25,000,000.00). No bonds shall be issued under this paragraph after July 1, 2017.

(y) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxvi) shall not exceed Thirty-five Million One Hundred Thousand Dollars ($35,100,000.00). No bonds shall be issued under this paragraph after July 1, 2021.

(z) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxvii) shall not exceed Fifty Million Dollars ($50,000,000.00). No bonds shall be issued under this paragraph after April 25, 2013.

(aa) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxviii) shall not exceed One Hundred Thirty Million Dollars ($130,000,000.00). No bonds shall be issued under this paragraph after July 1, 2023.

(4)(a) The proceeds from the sale of the bonds issued under this section may be applied for the following purposes:

(i) Defraying all or any designated portion of the costs incurred with respect to acquisition, planning, design, construction, installation, rehabilitation, improvement, relocation and with respect to state-owned property, operation and maintenance of the project and any facility related to the project located within the project area, including costs of design and engineering, all costs incurred to provide land, easements and rights-of-way, relocation costs with respect to the project and with respect to any facility related to the project located within the project area, and costs associated with mitigation of environmental impacts and environmental impact studies;

(ii) Defraying the cost of providing for the recruitment, screening, selection, training or retraining of employees, candidates for employment or replacement employees of the project and any related activity;

(iii) Reimbursing the Mississippi Development Authority for expenses it incurred in regard to projects defined in Section 57-75-5(f)(iv) prior to November 6, 2000. The Mississippi Development Authority shall submit an itemized list of expenses it incurred in regard to such projects to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives;

(iv) Providing grants to enterprises operating projects defined in Section 57-75-5(f)(iv)1;

(v) Paying any warranty made by the authority regarding site work for a project defined in Section 57-75-5(f)(iv)1;

(vi) Defraying the cost of marketing and promotion of a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii). The authority shall submit an itemized list of costs incurred for marketing and promotion of such project to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives;

(vii) Providing for the payment of interest on the bonds;

(viii) Providing debt service reserves;

(ix) Paying underwriters' discount, original issue discount, accountants' fees, engineers' fees, attorneys' fees, rating agency fees and other fees and expenses in connection with the issuance of the bonds;

(x) For purposes authorized in paragraphs (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (*l*) and (m) of this subsection (4);

(xi) Providing grants to enterprises operating projects defined in Section 57-75-5(f)(v), or, in connection with a facility related to such a project, for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xii) Providing grant funds or loans to a public agency or an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(ii);

(xiii) Providing grant funds or loans to an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(xiv);

(xiv) Providing grants, loans and payments to or for the benefit of an enterprise owning or operating a project defined in Section 57-75-5(f)(xviii);

(xv) Purchasing equipment for a project defined in Section 57-75-5(f)(viii) subject to such terms and conditions as the authority considers necessary and appropriate;

(xvi) Providing grant funds to an enterprise developing or owning a project defined in Section 57-75-5(f)(xx);

(xvii) Providing grants for projects as authorized in Section 57-75-11(kk), (*ll*), (mm) and (uu), or, in connection with a facility related to such a project, for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xviii) Providing grants for projects as authorized in Section 57-75-11(pp) for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xix) Providing grants and loans for projects as authorized in Section 57-75-11(qq);

(xx) Providing grants for projects as authorized in Section 57-75-11(rr);

(xxi) Providing grants, loans and payments as authorized in Section 57-75-11(ss); and

(xxii) Providing grants and loans as authorized in Section 57-75-11(tt).

Such bonds shall be issued from time to time and in such principal amounts as shall be designated by the authority, not to exceed in aggregate principal amounts the amount authorized in subsection (3) of this section. Proceeds from the sale of the bonds issued under this section may be invested, subject to federal limitations, pending their use, in such securities as may be specified in the resolution authorizing the issuance of the bonds or the trust indenture securing them, and the earning on such investment applied as provided in such resolution or trust indenture.

(b)(i) The proceeds of bonds issued after June 21, 2002, under this section for projects described in Section 57-75-5(f)(iv) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (b)(i) shall not exceed Three

Hundred Thousand Dollars ($300,000.00) in the aggregate. Reimbursements under this paragraph (b)(i) shall satisfy any applicable federal tax law requirements.

(ii) The proceeds of bonds issued after June 21, 2002, under this section for projects described in Section 57-75-5(f)(iv) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (b)(ii) shall not exceed One Hundred Thousand Dollars ($100,000.00) in the aggregate. Reimbursements under this paragraph (b)(ii) shall satisfy any applicable federal tax law requirements.

(c)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(ix) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided for the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(ix) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph shall satisfy any applicable federal tax law requirements.

(d)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(x) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided for the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(x) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph shall satisfy any applicable federal tax law requirements.

(e)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (e)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xii) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (e)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph (e)(ii) shall satisfy any applicable federal tax law requirements.

(f)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xiii), (f)(xiv), (f)(xv), (f)(xvi), (f)(xvii), (f)(xviii) and (f)(xx) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (f)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) for each project.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xiii), (f)(xiv), (f)(xv), (f)(xvi), (f)(xvii), (f)(xviii) and (f)(xx) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (f)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) for each project. Reimbursements under this paragraph (f)(ii) shall satisfy any applicable federal tax law requirements.

(g)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxi) or projects for a Tier One supplier may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (g)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxi) or projects for a Tier One supplier may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (g)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph (g)(ii) shall satisfy any applicable federal tax law requirements.

(h)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (h)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxii) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (h)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph (h)(ii) shall satisfy any applicable federal tax law requirements.

(i)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (i)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiii) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (i)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph (i)(ii) shall satisfy any applicable federal tax law requirements.

(j)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiv) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (j)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiv) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (j)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph (j)(ii) shall satisfy any applicable federal tax law requirements.

(k)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxv) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (k)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxv) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (k)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph (k)(ii) shall satisfy any applicable federal tax law requirements.

(*l*)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvi) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (*l*)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvi) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (*l*)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph (*l*)(ii) shall satisfy any applicable federal tax law requirements.

(m)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (m)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvii) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (m)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph (m)(ii) shall satisfy any applicable federal tax law requirements.

(n)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxviii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (n)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxviii) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (n)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph (n)(ii) shall satisfy any applicable federal tax law requirements.

(5) The principal of and the interest on the bonds shall be payable in the manner hereinafter set forth. The bonds shall bear date or dates; be in such denomination or denominations; bear interest at such rate or rates; be payable at such place or places within or without the state; mature absolutely at such time or times; be redeemable before maturity at such time or times and upon such terms, with or without premium; bear such registration privileges; and be substantially in such form; all as shall be determined by resolution of the State Bond Commission except that such bonds shall mature or otherwise be retired in annual installments beginning not more than five (5) years from the date thereof and extending not more than twenty-five (25) years from the date thereof. The bonds shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the State Bond Commission shall be imprinted on or affixed thereto, attested by the manual or facsimile signature of the Secretary of the State Bond Commission. Whenever any such bonds have been signed by the officials herein designated to sign the bonds, who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until the delivery of the same to the purchaser, or had been in office on the date such bonds may bear.

(6) All bonds issued under the provisions of this section shall be and are hereby declared to have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code and in exercising the powers granted by this chapter, the State Bond Commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

(7) The State Bond Commission shall act as issuing agent for the bonds, prescribe the form of the bonds, determine the appropriate method for sale of the bonds, advertise for and accept bids or negotiate the sale of the bonds, issue and sell the bonds, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of the bonds. The State Bond Commission may sell such bonds on sealed bids at public sale or may negotiate the sale of the bonds for such price as it may determine to be for the best interest of the State of Mississippi. The bonds shall bear interest at such rate or rates not exceeding the limits set forth in Section 75-17-101 as shall be fixed by the State Bond Commission. All interest accruing on such bonds so issued shall be payable semiannually or annually.

If the bonds are to be sold on sealed bids at public sale, notice of the sale of any bonds shall be published at least one time, the first of which shall be made not less than ten (10) days prior to the date of sale, and shall be so published in one or more newspapers having a general circulation in the City of Jackson selected by the State Bond Commission.

The State Bond Commission, when issuing any bonds under the authority of this section, may provide that the bonds, at the option of the state, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

(8) State bonds issued under the provisions of this section shall be the general obligations of the state and backed by the full faith and credit of the state. The Legislature shall appropriate annually an amount sufficient to pay the principal of and the interest on such bonds as they become due. All bonds shall contain recitals on their faces substantially covering the foregoing provisions of this section.

(9) The State Treasurer is authorized to certify to the Department of Finance and Administration the necessity for warrants, and the Department of Finance and Administration is authorized and directed to issue such warrants payable out of any funds appropriated by the Legislature under this section for such purpose, in such amounts as may be necessary to pay when due the principal of and interest on all bonds issued under the provisions of this section. The State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

(10) The bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by this chapter. Any resolution providing for the issuance of general obligation bonds under the provisions of this section shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular or special meeting of the State Bond Commission by a majority of its members.

(11) In anticipation of the issuance of bonds hereunder, the State Bond Commission is authorized to negotiate and enter into any purchase, loan, credit or other agreement with any bank, trust company or other lending institution or to issue and sell interim notes for the purpose of making any payments authorized under this section. All borrowings made under this provision shall be evidenced by notes of the state which shall be issued from time to time, for such amounts not exceeding the amount of bonds authorized herein, in such form and in such denomination and subject to such terms and conditions of sale and issuance, prepayment or redemption and maturity, rate or rates of interest not to exceed the maximum rate authorized herein for bonds, and time of payment of interest as the State Bond Commission shall agree to in such agreement. Such notes shall constitute general obligations of the state and shall be backed by the full faith and credit of the state. Such notes may also be issued for the purpose of refunding previously issued notes. No note shall mature more than three (3) years following the date of its issuance. The State Bond Commission is authorized to provide for the

compensation of any purchaser of the notes by payment of a fixed fee or commission and for all other costs and expenses of issuance and service, including paying agent costs. Such costs and expenses may be paid from the proceeds of the notes.

(12) The bonds and interim notes authorized under the authority of this section may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided now or hereafter by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The necessary papers for such validation proceedings shall be transmitted to the State Bond Attorney, and the required notice shall be published in a newspaper published in the City of Jackson, Mississippi.

(13) Any bonds or interim notes issued under the provisions of this chapter, a transaction relating to the sale or securing of such bonds or interim notes, their transfer and the income therefrom shall at all times be free from taxation by the state or any local unit or political subdivision or other instrumentality of the state, excepting inheritance and gift taxes.

(14) All bonds issued under this chapter shall be legal investments for trustees, other fiduciaries, savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi; and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of the state and all municipalities and other political subdivisions thereof for the purpose of securing the deposit of public funds.

(15) The Attorney General of the State of Mississippi shall represent the State Bond Commission in issuing, selling and validating bonds herein provided for, and the Bond Commission is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds authorized under this chapter.

(16) There is hereby created a special fund in the State Treasury to be known as the Mississippi Major Economic Impact Authority Fund wherein shall be deposited the proceeds of the bonds issued under this chapter and all monies received by the authority to carry out the purposes of this chapter. Expenditures authorized herein shall be paid by the State Treasurer upon warrants drawn from the fund, and the Department of Finance and Administration shall issue warrants upon requisitions signed by the director of the authority.

(17)(a) There is hereby created the Mississippi Economic Impact Authority Sinking Fund from which the principal of and interest on such bonds shall be paid by appropriation. All monies paid into the sinking fund not appropriated to pay accruing bonds and interest shall be invested by the State Treasurer in such securities as are provided by law for the investment of the sinking funds of the state.

(b) In the event that all or any part of the bonds and notes are purchased, they shall be cancelled and returned to the loan and transfer agent as cancelled and paid bonds and notes and thereafter all payments of interest thereon shall cease and the cancelled bonds, notes and coupons, together with any other cancelled bonds, notes and coupons, shall be destroyed as promptly as possible after cancellation but not later than two (2) years after cancellation. A certificate evidencing the destruction of the cancelled bonds, notes and coupons shall be provided by the loan and transfer agent to the seller.

(c) The State Treasurer shall determine and report to the Department of Finance and Administration and Legislative Budget Office by September 1 of each year the amount of money necessary for the payment of the principal of and interest on outstanding obligations for the following fiscal year and the times and amounts of the payments. It shall be the duty of the Governor to include in every executive budget submitted to the Legislature full information relating to the issuance of bonds and notes under the provisions of this chapter and the status of the sinking fund for the payment of the principal of and interest on the bonds and notes.

(d) Any monies repaid to the state from loans authorized in Section 57-75-11(hh) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund unless the State Bond Commission, at the request of the authority, shall determine that such loan repayments are needed to provide additional loans as authorized under Section 57-75-11(hh). For purposes of providing additional loans, there is hereby created the Mississippi Major Economic Impact Authority Revolving Loan Fund and loan repayments shall be deposited into the fund. The fund shall be maintained for such period as determined by the State Bond Commission for the sole purpose of making additional loans as authorized by Section 57-75-11(hh). Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund and any interest earned on amounts in such fund shall be deposited to the credit of the fund.

(e) Any monies repaid to the state from loans authorized in Section 57-75-11(ii) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund.

(f) Any monies repaid to the state from loans authorized in Section 57-75-11(jj) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund.

(18)(a) Upon receipt of a declaration by the authority that it has determined that the state is a potential site for a project, the State Bond Commission is authorized and directed to authorize the State Treasurer to borrow money from any special fund in the State Treasury not otherwise appropriated to be utilized by the authority for the purposes provided for in this subsection.

(b) The proceeds of the money borrowed under this subsection may be utilized by the authority for the purpose of defraying all or a portion of the costs incurred by the authority with respect to acquisition options and planning, design and environmental impact studies with respect to a project defined in Section 57-75-5(f)(xi). The authority may escalate its budget and expend the proceeds of the money borrowed under this subsection in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds.

(c) The authority shall request an appropriation or additional authority to issue general obligation bonds to repay the borrowed funds and establish a date for the repayment of the funds so borrowed.

(d) Borrowings made under the provisions of this subsection shall not exceed Five Hundred Thousand Dollars ($500,000.00) at any one time.

[From and after July 1, 2018, this section shall read as follows:]

(1) Upon notification to the authority by the enterprise that the state has been finally selected as the site for the project, the State Bond Commission shall have the power and is hereby authorized and directed, upon receipt of a declaration from the authority as hereinafter provided, to borrow money and issue general obligation bonds of the state in one or more series for the purposes herein set out. Upon such notification, the authority may thereafter from time to time declare the necessity for the issuance of general obligation bonds as authorized by this section and forward such declaration to the State Bond Commission, provided that before such notification, the authority may enter into agreements with the United States government, private companies and others that will commit the authority to direct the State Bond Commission to issue bonds for eligible undertakings set out in subsection (4) of this section, conditioned on the siting of the project in the state.

(2) Upon receipt of any such declaration from the authority, the State Bond Commission shall verify that the state has been selected as the site of the project and shall act as the issuing agent for the series of bonds directed to be issued in such declaration pursuant to authority granted in this section.

(3)(a) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(i) shall not exceed an aggregate principal amount in the sum of Sixty-seven Million Three Hundred Fifty Thousand Dollars ($67,350,000.00).

(b) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(ii) shall not exceed Sixty-three Million Dollars ($63,000,000.00). The authority, with the express direction of the State Bond Commission, is authorized to expend any remaining proceeds of bonds issued under the authority of this act prior to January 1, 1998, for the purpose of financing projects as then defined in Section 57-75-5(f)(ii) or for any other projects as defined in Section 57-75-5(f)(ii), as it may be amended from time to time. No bonds shall be issued under this paragraph (b) until the State Bond Commission by resolution adopts a finding that the issuance of such bonds will improve, expand or otherwise enhance the military installation, its support areas or military operations, or will provide employment opportunities to replace those lost by closure or reductions in operations at the military installation or will support critical studies or investigations authorized by Section 57-75-5(f)(ii).

(c) Bonds issued under the authority of this section for projects as defined in Section 57-75-5(f)(iii) shall not exceed Ten Million Dollars

($10,000,000.00). No bonds shall be issued under this paragraph after December 31, 1996.

(d) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(iv) shall not exceed Three Hundred Fifty-one Million Dollars ($351,000,000.00). An additional amount of bonds in an amount not to exceed Twelve Million Five Hundred Thousand Dollars ($12,500,000.00) may be issued under the authority of this section for the purpose of defraying costs associated with the construction of surface water transmission lines for a project defined in Section 57-75-5(f)(iv) or for any facility related to the project. No bonds shall be issued under this paragraph after June 30, 2005.

(e) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(v) and for facilities related to such projects shall not exceed Thirty-eight Million Five Hundred Thousand Dollars ($38,500,000.00). No bonds shall be issued under this paragraph after April 1, 2005.

(f) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(vii) shall not exceed Five Million Dollars ($5,000,000.00). No bonds shall be issued under this paragraph after June 30, 2006.

(g) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(viii) shall not exceed Four Million Five Hundred Thousand Dollars ($4,500,000.00). No bonds shall be issued under this paragraph after June 30, 2008.

(h) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(ix) shall not exceed Five Million Dollars ($5,000,000.00). No bonds shall be issued under this paragraph after June 30, 2007.

(i) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(x) shall not exceed Five Million Dollars ($5,000,000.00). No bonds shall be issued under this paragraph after April 1, 2005.

(j) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xii) shall not exceed Thirty-three Million Dollars ($33,000,000.00). The amount of bonds that may be issued under this paragraph for projects defined in Section 57-75-5(f)(xii) may be reduced by the amount of any federal or local funds made available for such projects. No bonds shall be issued under this paragraph until local governments in or near the county in which the project is located have irrevocably committed funds to the project in an amount of not less than Two Million Five Hundred Thousand Dollars ($2,500,000.00) in the aggregate; however, this irrevocable commitment requirement may be waived by the authority upon a finding that due to the unforeseen circumstances created by Hurricane Katrina, the local governments are unable to comply with such commitment. No bonds shall be issued under this paragraph after June 30, 2008.

(k) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xiii) shall not exceed Three Million Dollars ($3,000,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(*l*) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xiv) shall not exceed Twenty-four Million Dollars ($24,000,000.00). No bonds shall be issued under this paragraph until local governments in the county in which the project is located have irrevocably committed funds to the project in an amount of not less than Two Million Dollars ($2,000,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(m) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xv) shall not exceed Five Hundred Thousand Dollars ($500,000.00). No bonds shall be issued under this paragraph after June 30, 2009.

(n) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xvi) shall not exceed Ten Million Dollars ($10,000,000.00). No bonds shall be issued under this paragraph after June 30, 2011.

(o) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xvii) shall not exceed Three Million Five Hundred Thousand Dollars ($3,500,000.00). No bonds shall be issued under this paragraph after June 30, 2010.

(p) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xviii) shall not exceed Ninety-six Million Dollars ($96,000,000.00). No bonds shall be issued under this paragraph after June 30, 2016.

(q) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xix) shall not exceed Fifteen Million Dollars ($15,000,000.00). No bonds shall be issued under this paragraph after June 30, 2012.

(r) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xx) shall not exceed Twenty-three Million Dollars ($23,000,000.00). No bonds shall be issued under this paragraph after April 25, 2013.

(s) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxi) shall not exceed Two Hundred Ninety-three Million Nine Hundred Thousand Dollars ($293,900,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(t) Bonds issued under the authority of this section for Tier One suppliers shall not exceed Thirty Million Dollars ($30,000,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(u) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxii) shall not exceed Forty-eight Million Four Hundred Thousand Dollars ($48,400,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(v) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxiii) shall not exceed Eighty-eight Million Two Hundred Fifty Thousand Dollars ($88,250,000.00). No bonds shall be issued under this paragraph after July 1, 2009.

(w) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxiv) shall not exceed Thirteen Million Dollars ($13,000,000.00). No bonds shall be issued under this paragraph after July 1, 2020.

(x) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxv) shall not exceed Twenty-five Million Dollars ($25,000,000.00). No bonds shall be issued under this paragraph after July 1, 2017.

(y) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxvi) shall not exceed Thirty-five Million One Hundred Thousand Dollars ($35,100,000.00). No bonds shall be issued under this paragraph after July 1, 2021.

(z) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxvii) shall not exceed Fifty Million Dollars ($50,000,000.00). No bonds shall be issued under this paragraph after April 25, 2013.

(aa) Bonds issued under the authority of this section for projects defined in Section 57-75-5(f)(xxviii) shall not exceed One Hundred Thirty Million Dollars ($130,000,000.00). No bonds shall be issued under this paragraph after July 1, 2023.

(4)(a) The proceeds from the sale of the bonds issued under this section may be applied for the following purposes:

(i) Defraying all or any designated portion of the costs incurred with respect to acquisition, planning, design, construction, installation, rehabilitation, improvement, relocation and with respect to state-owned property, operation and maintenance of the project and any facility related to the project located within the project area, including costs of design and engineering, all costs incurred to provide land, easements and rights-of-way, relocation costs with respect to the project and with respect to any facility related to the project located within the project area, and costs associated with mitigation of environmental impacts and environmental impact studies;

(ii) Defraying the cost of providing for the recruitment, screening, selection, training or retraining of employees, candidates for employment or replacement employees of the project and any related activity;

(iii) Reimbursing the Mississippi Development Authority for expenses it incurred in regard to projects defined in Section 57-75-5(f)(iv) prior to November 6, 2000. The Mississippi Development Authority shall submit an itemized list of expenses it incurred in regard to such projects to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives;

(iv) Providing grants to enterprises operating projects defined in Section 57-75-5(f)(iv)1;

(v) Paying any warranty made by the authority regarding site work for a project defined in Section 57-75-5(f)(iv)1;

(vi) Defraying the cost of marketing and promotion of a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii). The authority shall submit an itemized list of costs incurred for marketing and promotion of such project to the Chairmen of the Finance and Appropriations Committees of the Senate and the Chairmen of the Ways and Means and Appropriations Committees of the House of Representatives;

(vii) Providing for the payment of interest on the bonds;

(viii) Providing debt service reserves;

(ix) Paying underwriters' discount, original issue discount, accountants' fees, engineers' fees, attorneys' fees, rating agency fees and other fees and expenses in connection with the issuance of the bonds;

(x) For purposes authorized in paragraphs (b), (c), (d), (e) and (f) of this subsection (4);

(xi) Providing grants to enterprises operating projects defined in Section 57-75-5(f)(v), or, in connection with a facility related to such a project, for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xii) Providing grant funds or loans to a public agency or an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(ii);

(xiii) Providing grant funds or loans to an enterprise owning, leasing or operating a project defined in Section 57-75-5(f)(xiv);

(xiv) Providing grants, loans and payments to or for the benefit of an enterprise owning or operating a project defined in Section 57-75-5(f)(xviii);

(xv) Purchasing equipment for a project defined in Section 57-75-5(f)(viii) subject to such terms and conditions as the authority considers necessary and appropriate;

(xvi) Providing grant funds to an enterprise developing or owning a project defined in Section 57-75-5(f)(xx);

(xvii) Providing grants for projects as authorized in Section 57-75-11(kk), (*ll*), (mm) and (uu), or, in connection with a facility related to such a project, for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xviii) Providing grants for projects as authorized in Section 57-75-11(pp) for any purposes deemed by the authority in its sole discretion to be necessary and appropriate;

(xix) Providing grants and loans for projects as authorized in Section 57-75-11(qq);

(xx) Providing grants for projects as authorized in Section 57-75-11(rr);

(xxi) Providing grants, loans and payments as authorized in Section 57-75-11(ss); and

(xxii) Providing loans as authorized in Section 57-75-11(tt).

Such bonds shall be issued from time to time and in such principal amounts as shall be designated by the authority, not to exceed in aggregate principal amounts the amount authorized in subsection (3) of this section. Proceeds from the sale of the bonds issued under this section may be invested, subject to federal limitations, pending their use, in such securities as may be specified in the resolution authorizing the issuance of the bonds or the trust indenture securing them, and the earning on such investment applied as provided in such resolution or trust indenture.

(b)(i) The proceeds of bonds issued after June 21, 2002, under this section for projects described in Section 57-75-5(f)(iv) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (b)(i) shall not exceed Three Hundred Thousand Dollars ($300,000.00) in the aggregate. Reimbursements under this paragraph (b)(i) shall satisfy any applicable federal tax law requirements.

(ii) The proceeds of bonds issued after June 21, 2002, under this section for projects described in Section 57-75-5(f)(iv) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (b)(ii) shall not exceed One Hundred Thousand Dollars ($100,000.00) in the aggregate. Reimbursements under this paragraph (b)(ii) shall satisfy any applicable federal tax law requirements.

(c)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(ix) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided for the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(ix) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph shall satisfy any applicable federal tax law requirements.

(d)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(x) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided for the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(x) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph shall satisfy any applicable federal tax law requirements.

(e)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (e)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xii) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (e)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph (e)(ii) shall satisfy any applicable federal tax law requirements.

(f)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xiii), (f)(xiv), (f)(xv), (f)(xvi), (f)(xvii), (f)(xviii) and (f)(xx) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (f)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) for each project.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xiii), (f)(xiv), (f)(xv), (f)(xvi), (f)(xvii), (f)(xviii) and (f)(xx) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (f)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) for each project. Reimbursements under this paragraph (f)(ii) shall satisfy any applicable federal tax law requirements.

(g)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxi) or projects for a Tier One supplier may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (g)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxi) or projects for a Tier One supplier may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (g)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph (g)(ii) shall satisfy any applicable federal tax law requirements.

(h)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (h)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxii) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (h)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph (h)(ii) shall satisfy any applicable federal tax law requirements.

(i)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (i)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiii) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (i)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph (i)(ii) shall satisfy any applicable federal tax law requirements.

(j)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiv) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (j)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxiv) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (j)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph (j)(ii) shall satisfy any applicable federal tax law requirements.

(k)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxv) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (k)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxv) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (k)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph (k)(ii) shall satisfy any applicable federal tax law requirements.

(*l*)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvi) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (*l*)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvi) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (*l*)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph (*l*)(ii) shall satisfy any applicable federal tax law requirements.

(m)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (m)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxvii) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (m)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph (m)(ii) shall satisfy any applicable federal tax law requirements.

(n)(i) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxviii) may be used to reimburse reasonable actual and necessary costs incurred by the Mississippi Development Authority in providing assistance related to a project for which funding is provided from the use of proceeds of such bonds. The Mississippi Development Authority shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. Reimbursements under this paragraph (n)(i) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate.

(ii) The proceeds of bonds issued under this section for projects described in Section 57-75-5(f)(xxviii) may be used to reimburse reasonable actual and necessary costs incurred by the Department of Audit in providing services related to a project for which funding is provided from the use of proceeds of such bonds. The Department of Audit shall maintain an accounting of actual costs incurred for each project for which reimbursements are sought. The Department of Audit may escalate its budget and expend such funds in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Reimbursements under this paragraph (n)(ii) shall not exceed Twenty-five Thousand Dollars ($25,000.00) in the aggregate. Reimbursements under this paragraph (n)(ii) shall satisfy any applicable federal tax law requirements.

(5) The principal of and the interest on the bonds shall be payable in the manner hereinafter set forth. The bonds shall bear date or dates; be in such denomination or denominations; bear interest at such rate or rates; be payable at such place or places within or without the state; mature absolutely at such time or times; be redeemable before maturity at such time or times and upon such terms, with or without premium; bear such registration privileges; and be substantially in such form; all as shall be determined by resolution of the State Bond Commission except that such bonds shall mature or otherwise be retired in annual installments beginning not more than five (5) years from the date thereof and extending not more than twenty-five (25) years from the date thereof. The bonds shall be signed by the Chairman of the State Bond Commission, or by his facsimile signature, and the official seal of the State Bond Commission shall be imprinted on or affixed thereto, attested by the manual or facsimile signature of the Secretary of the State Bond Commission. Whenever any such bonds have been signed by the officials herein designated to sign the bonds, who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until the delivery of the same to the purchaser, or had been in office on the date such bonds may bear.

(6) All bonds issued under the provisions of this section shall be and are hereby declared to have all the qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code and in exercising the powers granted by this chapter, the State Bond Commission shall not be

required to and need not comply with the provisions of the Uniform Commercial Code.

(7) The State Bond Commission shall act as issuing agent for the bonds, prescribe the form of the bonds, advertise for and accept bids, issue and sell the bonds on sealed bids at public sale, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of the bonds. The State Bond Commission may sell such bonds on sealed bids at public sale for such price as it may determine to be for the best interest of the State of Mississippi, but no such sale shall be made at a price less than par plus accrued interest to date of delivery of the bonds to the purchaser. The bonds shall bear interest at such rate or rates not exceeding the limits set forth in Section 75-17-101 as shall be fixed by the State Bond Commission. All interest accruing on such bonds so issued shall be payable semiannually or annually; provided that the first interest payment may be for any period of not more than one (1) year.

Notice of the sale of any bonds shall be published at least one time, the first of which shall be made not less than ten (10) days prior to the date of sale, and shall be so published in one or more newspapers having a general circulation in the City of Jackson selected by the State Bond Commission.

The State Bond Commission, when issuing any bonds under the authority of this section, may provide that the bonds, at the option of the state, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

(8) State bonds issued under the provisions of this section shall be the general obligations of the state and backed by the full faith and credit of the state. The Legislature shall appropriate annually an amount sufficient to pay the principal of and the interest on such bonds as they become due. All bonds shall contain recitals on their faces substantially covering the foregoing provisions of this section.

(9) The State Treasurer is authorized to certify to the Department of Finance and Administration the necessity for warrants, and the Department of Finance and Administration is authorized and directed to issue such warrants payable out of any funds appropriated by the Legislature under this section for such purpose, in such amounts as may be necessary to pay when due the principal of and interest on all bonds issued under the provisions of this section. The State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

(10) The bonds may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by this chapter. Any resolution providing for the issuance of general obligation bonds under the provisions of this section shall become effective immediately upon its adoption by the State Bond Commission, and any such resolution may be adopted at any regular or special meeting of the State Bond Commission by a majority of its members.

(11) In anticipation of the issuance of bonds hereunder, the State Bond Commission is authorized to negotiate and enter into any purchase, loan, credit or other agreement with any bank, trust company or other lending institution or to issue and sell interim notes for the purpose of making any payments authorized under this section. All borrowings made under this provision shall be evidenced by notes of the state which shall be issued from time to time, for such amounts not exceeding the amount of bonds authorized herein, in such form and in such denomination and subject to such terms and conditions of sale and issuance, prepayment or redemption and maturity, rate or rates of interest not to exceed the maximum rate authorized herein for bonds, and time of payment of interest as the State Bond Commission shall agree to in such agreement. Such notes shall constitute general obligations of the state and shall be backed by the full faith and credit of the state. Such notes may also be issued for the purpose of refunding previously issued notes. No note shall mature more than three (3) years following the date of its issuance. The State Bond Commission is authorized to provide for the compensation of any purchaser of the notes by payment of a fixed fee or commission and for all other costs and expenses of issuance and service, including paying agent costs. Such costs and expenses may be paid from the proceeds of the notes.

(12) The bonds and interim notes authorized under the authority of this section may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided now or hereafter by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The necessary papers for such validation proceedings shall be transmitted to the State Bond Attorney, and the required notice shall be published in a newspaper published in the City of Jackson, Mississippi.

(13) Any bonds or interim notes issued under the provisions of this chapter, a transaction relating to the sale or securing of such bonds or interim notes, their transfer and the income therefrom shall at all times be free from taxation by the state or any local unit or political subdivision or other instrumentality of the state, excepting inheritance and gift taxes.

(14) All bonds issued under this chapter shall be legal investments for trustees, other fiduciaries, savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi; and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of the state and all municipalities and other political subdivisions thereof for the purpose of securing the deposit of public funds.

(15) The Attorney General of the State of Mississippi shall represent the State Bond Commission in issuing, selling and validating bonds herein provided for, and the Bond Commission is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds authorized under this chapter.

(16) There is hereby created a special fund in the State Treasury to be known as the Mississippi Major Economic Impact Authority Fund wherein shall be deposited the proceeds of the bonds issued under this chapter and all monies received by the authority to carry out the purposes of this chapter. Expenditures authorized herein shall be paid by the State Treasurer upon warrants drawn from the fund, and the Department of Finance and Administration shall issue warrants upon requisitions signed by the director of the authority.

(17)(a) There is hereby created the Mississippi Economic Impact Authority Sinking Fund from which the principal of and interest on such bonds shall be paid by appropriation. All monies paid into the sinking fund not appropriated to pay accruing bonds and interest shall be invested by the State Treasurer in such securities as are provided by law for the investment of the sinking funds of the state.

(b) In the event that all or any part of the bonds and notes are purchased, they shall be cancelled and returned to the loan and transfer agent as cancelled and paid bonds and notes and thereafter all payments of interest thereon shall cease and the cancelled bonds, notes and coupons, together with any other cancelled bonds, notes and coupons, shall be destroyed as promptly as possible after cancellation but not later than two (2) years after cancellation. A certificate evidencing the destruction of the cancelled bonds, notes and coupons shall be provided by the loan and transfer agent to the seller.

(c) The State Treasurer shall determine and report to the Department of Finance and Administration and Legislative Budget Office by September 1 of each year the amount of money necessary for the payment of the principal of and interest on outstanding obligations for the following fiscal year and the times and amounts of the payments. It shall be the duty of the Governor to include in every executive budget submitted to the Legislature full information relating to the issuance of bonds and notes under the provisions of this chapter and the status of the sinking fund for the payment of the principal of and interest on the bonds and notes.

(d) Any monies repaid to the state from loans authorized in Section 57-75-11(hh) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund unless the State Bond Commission, at the request of the authority, shall determine that such loan repayments are needed to provide additional loans as authorized under Section 57-75-11(hh). For purposes of providing additional loans, there is hereby created the Mississippi Major Economic Impact Authority Revolving Loan Fund and loan repayments shall be deposited into the fund. The fund shall be maintained for such period as determined by the State Bond Commission for the sole purpose of making additional loans as authorized by Section 57-75-11(hh). Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund and any interest earned on amounts in such fund shall be deposited to the credit of the fund.

(e) Any monies repaid to the state from loans authorized in Section 57-75-11(ii) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund.

(f) Any monies repaid to the state from loans authorized in Section 57-75-11(jj) shall be deposited into the Mississippi Major Economic Impact Authority Sinking Fund.

(18)(a) Upon receipt of a declaration by the authority that it has determined that the state is a potential site for a project, the State Bond Commission is authorized and directed to authorize the State Treasurer to borrow money from any special fund in the State Treasury not otherwise appropriated to be utilized by the authority for the purposes provided for in this subsection.

(b) The proceeds of the money borrowed under this subsection may be utilized by the authority for the purpose of defraying all or a portion of the costs incurred by the authority with respect to acquisition options and planning, design and environmental impact studies with respect to a project defined in Section 57-75-5(f)(xi). The authority may escalate its budget and expend the proceeds of the money borrowed under this subsection in accordance with rules and regulations of the Department of Finance and Administration in a manner consistent with the escalation of federal funds.

(c) The authority shall request an appropriation or additional authority to issue general obligation bonds to repay the borrowed funds and establish a date for the repayment of the funds so borrowed.

(d) Borrowings made under the provisions of this subsection shall not exceed Five Hundred Thousand Dollars ($500,000.00) at any one time.

SOURCES: Laws, 1989, ch. 534, § 8; Laws, 1990, ch. 570, § 13; Laws, 1991, ch. 584, § 4; Laws, 1993, ch. 305, § 3; Laws, 1993, ch. 570, § 2; Laws, 1994, ch. 420, § 2; Laws, 1995, ch. 576, § 2; Laws, 1996, ch. 508, § 2; Laws, 1996, ch. 554, § 5; Laws, 1997, ch. 585, § 2; Laws, 2000, ch. 584, § 6; Laws, 2000, 2nd Ex Sess, ch. 1, § 45; Laws, 2000, 3rd Ex Sess, ch. 1, § 9; Laws, 2001, ch. 449, § 1; Laws, 2002, ch. 541, § 7; Laws, 2002, 1st Ex Sess, ch. 2, § 3; Laws, 2003, ch. 3, § 3; Laws, 2003, ch. 326, § 4; Laws, 2003, ch. 513, § 4; Laws, 2004, ch. 484, § 1; Laws, 2004, ch. 507, § 2; Laws, 2004, 3rd Ex Sess, ch. 1, § 93; Laws, 2005, ch. 315, § 3; Laws, 2005, ch. 521, § 3; Laws, 2005, 4th Ex Sess, ch. 1, § 2; Laws, 2005, 5th Ex Sess, ch. 1, § 2; Laws, 2006, ch. 538, § 8; Laws, 2006, 1st Ex Sess, ch. 2, § 3; Laws, 2007, ch. 303, § 4; Laws, 2007, 1st Ex Sess, ch. 1, § 4; Laws, 2008, 1st Ex Sess, ch. 45, § 4; Laws, 2009, ch. 302, § 3; Laws, 2009, ch. 303, § 3; Laws, 2009, ch. 464, § 2; Laws, 2010, ch. 301, § 4; Laws, 2010, ch. 405, § 4; Laws, 2011, ch. 431, § 1; Laws, 2013, ch. 567, § 1; Laws, 2013, ch. 569, § 34; Laws, 2013, 1st Ex Sess, ch. 1, § 4; brought forward without change by Laws, 2014, ch. 427, § 4; Laws, 2014, ch. 500, § 1, eff from and after July 1, 2014.

Joint Legislative Committee Note — Section 4 of ch. 326 Laws of 2003, effective from and after its passage (approved March 7, 2003), amended this section. Section 4 of ch. 513, Laws of 2003, effective July 1, 2003, also amended this section. As set out above, this section reflects the language of Section 4 of ch. 513, Laws of 2003, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

Section 1 of ch. 484 Laws of 2004, effective from and after passage (approved May 1, 2004), amended this section. Section 2 of ch. 587, Laws of 2004, effective from and after passage (approved May 4, 2004), also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109 which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the July 8, 2004 meeting of the Committee.

Section 3 of ch. 315 Laws of 2005, effective from and after passage (approved March 14, 2005), amended this section. Section 3 of ch. 521, Laws of 2005, effective from and after passage (approved April 20, 2005), also amended this section. As set out above, this section reflects the language of Section 3 of ch. 521, Laws of 2005, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, and the effective dates of the amendments are the same, the amendment with the latest approval date shall supersede all other amendments to the same section approved on an earlier date.

Section 2 of ch. 464 Laws of 2009, effective from and after July 1, 2009 (approved March 30, 2009), amended this section. Section 3 of ch. 303, Laws of 2009, effective upon passage (approved February 11, 2009), and Section 3 of ch. 302, Laws of 2009, effective upon passage (approved February 3, 2009), also amended this section. As set out above, this section reflects the language of Section 2 of ch. 464, Laws of 2009, pursuant to Section 1-3-79, which provides that whenever the same section of law is amended by different bills during the same legislative session, the amendment with the latest effective date shall supersede all other amendments to the same section taking effect on an earlier date.

Section 4 of ch. 405 Laws of 2010, effective upon passage (approved March 17, 2010), amended this section. Section 4 of ch. 301, Laws of 2010, effective upon passage (approved January 12, 2010), also amended this section. As set out above, this section reflects the language of Section 4 of ch. 405, Laws of 2010, which contains language that specifically provides that it supersedes § 57-75-15 as amended by Laws of 2010, ch. 301.

Section 1 of ch. 567, Laws of 2013, effective from and after passage (approved April 25, 2013), amended this section. Section 34 of ch. 569, Laws of 2013, effective from and after passage (approved April 25, 2013), also amended this section. As set out above, this section reflects the language of both amendments, pursuant to Section 1-1-109 which gives the Joint Legislative Committee on Compilation, Revision and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the August 1, 2013, meeting of the Committee.

Section 4 of ch. 427, Laws of 2014, effective from and after July 1, 2014 (approved March 24, 2014), brought the section forward without change. Section 1 of ch. 500, Laws of 2014, effective from and after July 1, 2014 (approved April 17, 2014), also amended this section. As set out above, this section reflects the language of Section 1 of ch. 500, Laws of 2014, pursuant to Section 1-3-79 which provides that whenever the same section of law is amended by different bills during the same legislative session, and the effective dates of the amendments are the same, the amendment with the latest approval date shall supersede all other amendments to the same section approved on an earlier date.

Editor's Note — Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section § 27-104-6, provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration."

Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

Laws of 2004, 3rd Ex Sess, ch. 1, § 228 provides:

"SECTION 228. Except as otherwise provided in this act, any entity using funds authorized and made available under Chapter 1, 2004 Third Extraordinary Session, is authorized, in its discretion, to set aside not more than twenty percent (20%) of such funds for expenditure with small business concerns owned and controlled by socially and economically disadvantaged individuals. The term "socially and economically disadvantaged individuals" shall have the meaning ascribed to such term under Section 8(d) of the Small Business Act (15 USCS, Section 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this section."

Amendment Notes — The first 2013 amendment (ch. 567), substituted "April 25, 2013" for "June 30, 2015" in (3)(r) and "April 25, 2013" for "July 1, 2016" in (3)(z) in both versions of the section.

The second 2013 amendment (ch. 569), in both versions, in (3)(b), substituted "Sixty-three Million Dollars ($63,000,000.00)" for "Sixty-one Million Dollars ($61,000,000.00)" in the first sentence and deleted the third sentence, which read: "If there are any monetary proceeds derived from the disposition of any improvements located on real property in Kemper County purchased pursuant to this act for projects related to the NAAS and if there are any monetary proceeds derived from the disposition of any timber located on real property in Kemper County purchased pursuant to this act for projects related to the NAAS, all of such proceeds (both from the disposition of improvements and the disposition of timber) commencing July 1, 1996, through June 30, 2010, shall be paid to the Board of Education of Kemper County, Mississippi, for expenditure by such board of education to benefit the public schools of Kemper County."

The third 2013 amendment, (1st Ex Sess ch. 1) in both versions of the section added (3)(aa); in (4)(a)(xvii), inserted "and (uu)"; added (4)(n); and substituted "Chancery Court of the First Judicial District" for "First Judicial District of the Chancery Court" in (12).

The first 2014 amendment (ch. 427) brought the section forward without change.

The second 2014 amendment (ch. 500) extended the reverter on the provisions in the first version of the section from "June 30, 2014" to "June 30, 2018" and in the second version extended the reverter from "July 1, 2014" to "July 1, 2018."

Cross References — State Bond Attorney generally, see § 31-13-1.

General powers and duties of the State Bond Commission, see § 31-17-3.

Mississippi Development Authority, see §§ 57-1-1 et seq.

Ineligibility for certain forms of assistance and requirement to repay assistance received under this section by entities convicted of hiring illegal immigrants, see § 57-1-373.

Uniform Commercial Code, see §§ 75-9-101 et seq.

ATTORNEY GENERAL OPINIONS

Under Section 57-75-15(4) bond proceeds may be invested and the interest or return on the bond proceeds utilized as set forth in the Inducement Package. Pittman, May 3, 1996, A.G. Op. #96-0259.

In connection with the issuance of general obligation bonds in the amount of up to $26 million as an inducement to the location, construction and operation of a natural gas fueled electric generating plant with an initial capital investment of not less than $250 million, the involved public entities had the legal power and authority to enter into the project agreements and to perform the obligations on their respective parts referenced therein, provided the governing bodies of each adopted resolutions authorizing the same; further, assuming the authorization, execution and delivery of the project agreements by each of the public entities, such agreements constituted valid and binding obligations of the public entities and were enforceable against the respective entities in accordance with its terms; finally, neither the execution, delivery or performance of the project agreements nor compliance by the public entities with terms thereof would contravene any provision of the applicable laws of the state. Pittman, August 10, 1999, A.G. Op. #99-0376.

§ 57-75-17. Powers and duties of public agencies; provision in contracts or agreements between authority and public agency for payment of indebtedness; proceedings upon failure of public agency to pay indebtedness.

(1) For the purpose of aiding in the planning, design, undertaking and carrying out of the project or any facility related to the project, any public agency is authorized and empowered upon such terms, with or without consideration, as it may determine:

(a) To enter into agreements, which may extend over any period, with the authority respecting action to be taken by such public agency with respect to the acquisition, planning, construction, improvement, operation, maintenance or funding of the project or any such facility, and which agreements may include:

(i) The appropriation or payment of funds to the authority or to a trustee in amounts which shall be sufficient to enable the authority to defray any designated portion or percentage of the expenses of administering, planning, designing, constructing, acquiring, improving, operating, and maintaining the project or any facility related to the project,

(ii) The appropriation or payment of funds to the authority or to a trustee to pay interest and principal (whether at maturity or upon sinking fund redemption) on bonds of the authority issued pursuant to this act and to fund reserves for debt service, for operation and maintenance and for renewals and replacements, and to fulfill requirements of any covenant with respect to debt service contained in any resolution, trust indenture or other security agreement relating to the bonds of the authority issued pursuant to this act,

(iii) The furnishing of other assistance in connection with the project or facility related to the project, and

(iv) The borrowing of money from the authority in connection with a project defined in Section 57-75-5(f)(ii);

(b) To dedicate, sell, donate, convey or lease any property or interest in property to the authority or grant easements, licenses or other rights or privileges therein to the authority;

(c) To incur the expense of any public improvements made or to be made by such public agency in exercising the powers granted in this section;

(d) To lend, grant or contribute funds to the authority;

(e) To cause public buildings and public facilities, including parks, playgrounds, recreational areas, community meeting facilities, water, sewer or drainage facilities, or any other works which it is otherwise empowered to undertake, to be furnished to or with respect to the project or any such facility;

(f) To furnish, dedicate, close, vacate, pave, install, upgrade or improve highways, streets, roads, sidewalks, airports, railroads, or ports;

(g) To plan or replan, zone or rezone any parcel of land within the public agency or make exceptions from land use, building and zoning regulations;

(h) To cause administrative and other services to be furnished to the authority, including services pertaining to the acquisition of real property and the furnishing of relocation assistance; and

(i) To loan to the owner, lessee or operator of any project defined in Section 57-75-5(f)(ii) the proceeds of any loan from the authority to the public entity under the provisions of this act.

(2) Any contract between a public agency entered into with the authority pursuant to any of the powers granted by this act shall be binding upon said public agency according to its terms, and such public agency shall have the power to enter into such contracts as in the discretion of the governing authorities thereof would be to the best interest of the people of such public agency. Such contracts may include within the discretion of such governing authorities of public agencies defined under Section 57-75-5(h) (ii) a pledge of the full faith and credit of such public agency or any other lawfully available funds for the performance thereof. If at any time title to or possession of the project or any such facility is held by any public body or governmental agency other than the authority, including any agency or instrumentality of the United States of America, the agreements referred to in this section shall inure to the benefit of and may be enforced by such public body or governmental agency.

(3) Notwithstanding any provisions of this act to the contrary, any contract entered into between the authority and any public agency for the appropriation or payment of funds to the authority under item (a) (ii) or (a) (iv) of this section shall contain a provision therein requiring periodic payments by the public agency as required by the authority to pay its indebtedness and, if the public agency is not a county or municipality, such contract shall include as an additional party to the contract the county or municipality (referred to in this paragraph as "levying authority") that levies and collects taxes for the contracting public agency. If the public agency fails to pay its indebtedness for any month, the authority shall certify to the State Tax Commission, or other appropriate agency, the amount of the delinquency, and the State Tax Commission shall deduct such amount from the public agency's or levying authority's, as the case may be, next allocation of sales taxes, petroleum taxes, highway privilege taxes, severance taxes, Tennessee Valley Authority payments in lieu of taxes and homestead exemption reimbursements in that order of priority. The State Tax Commission, or other appropriate agency, shall pay

the sums so deducted to the authority to be applied to the discharge of the contractual obligation.

(4) Notwithstanding any provision of this act to the contrary, all loans made pursuant to Section 57-75-11(hh) and this section shall be for a term not to exceed twenty (20) years as may be determined by the authority, shall bear interest at such rates as may be determined by the authority, shall, in the sole discretion of the authority, be secured in an amount and a manner as may be determined by the authority.

(5)(a) Before authorizing any loan to a public agency defined in Section 57-75-5(h)(ii), a local governmental unit, the governing authority of such local governmental unit in connection with a project defined in Section 57-75-5(f)(ii), shall adopt a resolution declaring its intention so to do, stating the amount of the loan proposed to be authorized and the purpose for which the loan is to be authorized, and the date upon which the loan will be authorized. Such resolution shall be published once a week for at least three (3) consecutive weeks in at least one (1) newspaper published in such local governmental unit. The first publication of such resolution shall be made not less than twenty-one (21) days before the date fixed in such resolution for the authorization of the loan and the last publication shall be made not more than seven (7) days before such date. If no newspaper is published in such local governmental unit, then such notice shall be given by publishing the resolution for the required time in some newspaper having a general circulation in such local governmental unit and, in addition, by posting a copy of such resolution for at least twenty-one (21) days next preceding the date fixed therein at three (3) public places in such local governmental unit. If fifteen percent (15%) of the qualified electors of the local governmental unit or fifteen hundred (1500), whichever is the lesser, file a written protest against the authorization of such loan on or before the date specified in such resolution, then an election on the question of the authorization of such loan shall be called and held as otherwise provided for in connection with the issuance of general obligation indebtedness of such local governmental unit. Notice of such election shall be given as otherwise required in connection with the issuance of general obligation indebtedness of such local governmental unit. If three-fifths (3⁄5) of the qualified electors voting in the election vote in favor of authorizing the loan, then the governing authority of the local governmental unit shall proceed with the loan; however, if less than three-fifths (3⁄5) of the qualified electors voting in the election vote in favor of authorizing the loan, then the loan shall not be incurred. If no protest be filed, then such loan may be entered into by the local governmental unit without an election on the question of the authorization of such loan, at any time within a period of two (2) years after the date specified in the resolution. However, the governing authority of any local governmental unit, in its discretion, may nevertheless call an election on such question, in which event it shall not be necessary to publish the resolution declaring its intention to authorize such loan as provided in this subsection.

(b) Local governmental units may, in connection with any such loan, enter into any covenants and agreements with respect to such local governmental unit's operations, revenues, assets, monies, funds or property, or such loan, as may be prescribed by the authority.

(c) Upon the making of any such loan by the authority to any local governmental unit, such local governmental unit shall be held and be deemed to have agreed that if such governmental unit fails to pay the principal of, premium, if any, and interest on any such loan as when due and payable, such governmental unit shall have waived any and all defenses to such nonpayment, and the authority, upon such nonpayment, shall thereupon avail itself of all remedies, rights and provisions of law applicable in such circumstance, including without limitation any remedies or rights theretofore agreed to by the local governmental unit, and that such loan shall for all of the purposes of this section, be held and be deemed to have become due and payable and to be unpaid. The authority may carry out the provisions of this section and exercise all of the rights and other applicable laws of this state.

(d) This section shall be deemed to provide an additional, alternative and complete method for the doing of the things authorized by this section and shall be deemed and construed to be supplemental to any power conferred by other laws on public agencies and not in derogation of any such powers. Any obligation incurred pursuant to the provisions of this section shall not constitute an indebtedness of the public agency within the meaning of any constitutional or statutory limitation or restriction. For purposes of this act, a public agency shall not be required to comply with the provisions of any other law except as provided in this section.

(6) Any public agency providing any utility service or services, to any project defined in Section 57-75-5(f)(iv)1 may enter into leases or subleases for any period of time not to exceed thirty (30) years, in the capacity as lessor or lessee or sublessor or sublessee of lands alone, or lands and facilities located thereon, whether the facilities are owned by the owner of the land, a lessee, sublessee or a third party, and whether the public agency is a lessor, lessee or owner of the land. Any such public agency may also enter into operating agreements and/or lease-purchase agreements with respect to land or utility facilities as owner, operator, lessor or lessee for any period of time not to exceed thirty (30) years. Any such public agency may also enter into contracts for the provision of utilities for any period of time not to exceed thirty (30) years and may set a special rate structure for such utilities.

SOURCES: Laws, 1989, ch. 534, § 9; Laws, 2000, 3rd Ex Sess, ch. 1, § 10; Laws, 2004 3rd Ex Sess, ch. 1, § 94, eff from and after passage (approved November 24, 2004.)

Editor's Note — Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Cross References — Tennessee Valley Authority payments in lieu of taxes, see §§ 27-37-301 through 27-37-307.

ATTORNEY GENERAL OPINIONS

Section 57-75-17 specifically provides authority to a state agency, such as the Mississippi Transportation Commission, to convey lands to the Mississippi Major Economic Impact Authority for the purpose of aiding a "project" as defined by the Act. Wood, Apr. 2, 2003, A.G. Op. 03-0161.

§ 57-75-19. Approval by county, municipality and/or school district for development of project or facility.

The authority shall not undertake to develop any project or facility related to the project within a county, municipality and/or school district without the concurrence of the affected county, municipality and/or school district.

SOURCES: Laws, 1989, ch. 534, § 10, eff from and after passage (approved April 17, 1989).

§ 57-75-21. Expenditures with certain small business concerns.

(1)(a) The authority shall set a goal to expend not less than ten percent (10%) of the total amounts expended by the authority on planning, construction, training, research, development, testing, evaluation, personal services, procurement, and for the operation and maintenance of any facilities or activities controlled by such authority, with minority small business concerns owned and controlled by socially and economically disadvantaged individuals. For the purpose of determining the total amounts expended with such minority small business concerns, credit shall be given for that portion of any prime contract entered into with the authority which inures to the benefit of such minority small business concern as a subcontractor thereunder.

(b) For the purposes of this section, the term "socially and economically disadvantaged individuals" shall have the meaning ascribed to such term under Section 8(d) of the Small Business Act (15 U.S.C.S., Section 637(d)) and relevant subcontracting regulations promulgated pursuant thereto.

(c) For the purposes of this section, the term "minority small business concern" means any small business concern:

(i) Which is at least fifty-one percent (51%) owned by one or more socially and economically disadvantaged individuals; or, in the case of any publicly owned businesses, at least fifty-one percent (51%) of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

(ii) Whose management and daily business operations are controlled by one or more of such individuals.

(d) For the purpose of this section, the term "small business concern" shall mean "small business" as the latter term is defined in Section 57-10-155, Mississippi Code of 1972.

(2) In order to comply in a timely manner with its minority small business participation mandate, the authority shall set an annual goal to expend not

less than ten percent (10%) of its aggregate yearly expenditures with minority small business concerns.

(3) The authority shall:

(a) Monitor the minority small business concerns assistance programs prescribed in this section.

(b) Review and determine the business capabilities of minority small business concerns.

(c) Establish standards for a certification procedure for minority small business concerns seeking to do business with the authority.

(d) Provide technical assistance services to minority small business concerns. Such technical assistance shall include but not be limited to:

(i) Research;

(ii) Assistance in obtaining bonds;

(iii) Bid preparation;

(iv) Certification of business concerns;

(v) Marketing assistance; and

(vi) Joint venture and capital development.

(e) Develop alternative bidding and contracting procedures for minority small business concerns in conjunction with the State Fiscal Management Board and the Governor's Office of General Services.

(f) Utilize such alternative bidding and contracting procedures in lieu of those prescribed in Title 31, Chapters 5 and 7, Mississippi Code of 1972, when contracting with minority small business concerns that have qualified to bid for contracts and have satisfied any other disclosure provisions required by the authority.

(g) Be authorized to accept in lieu of any bond otherwise required from minority small business concerns or small business concerns contracting with the authority, in an amount equal to one hundred percent (100%) of the total cost of the contracted project, any combination of the following:

(i) Cash;

(ii) Certificates of deposit from any bank or banking corporation insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation;

(iii) Federal treasury bills;

(iv) Letters of credit issued by a bank as that term is defined in Section 81-3-1, Mississippi Code of 1972; or

(v) Surety bonds issued by an insurance company licensed and qualified to do business in the State of Mississippi.

(h) Be authorized, in its discretion, to waive any bond required on any project which does not exceed a total dollar value of One Hundred Thousand Dollars ($100,000.00). A retainage shall be held by the authority in an amount not to exceed fifteen percent (15%) from each draw according to American Institute of Architects (AIA) standards. Upon satisfactory completion of such project, ten percent (10%) of the total cost of the contract shall be held in an interest-bearing escrow account for one (1) year. Funds deposited in such escrow account shall stand as a surety for any defects in workmanship or materials detected within twelve (12) months of completion. The balance of all monies so escrowed including accrued interest shall be paid to the contractor at the end of such twelve-month period.

(i) Be empowered to provide an incentive of bimonthly payments to any prime contractors utilizing minority small business concerns as subcontractors on twenty-five percent (25%) or more of the total dollar value of any single project or contract.

(j) Submit an annual report on its progress concerning minority small business contracts to the Legislature by January 30 of each year.

(k) Take all steps necessary to implement the provisions of this section.

SOURCES: Laws, 1989, ch. 534, § 11, eff from and after passage (approved April 17, 1989).

Editor's Note — Section 7-1-451 provides that wherever the term "Office of General Services" appears in any law the same shall mean the Department of Finance and Administration.

Section 27-104-1 provides that the term "Fiscal Management Board" shall mean the Department of Finance and Administration.

Federal Aspects — Small Business Act generally, see 15 USCS §§ 631 et seq.

JUDICIAL DECISIONS

1. In general.

Community college could not reject all bids, solicited through public advertisement for construction of new campus buildings, after it had already had accepted lowest responsible bid, even though college specifically reserved right to reject any and all bids at its discretion; once lowest bid was accepted, parties had entered binding contract and acceptance could not be revoked. Northeast Miss. Community College Dist. v. Vanderheyden Constr. Co., 800 F. Supp. 1400 (N.D. Miss. 1992).

§ 57-75-22. Highway projects constructed or improved for certain projects under this chapter to be under jurisdiction of Mississippi Transportation Commission.

Any highways or highway segments constructed or improved by the Mississippi Department of Transportation under the provisions of this chapter for a project as defined in Section 57-75-5(f)(iv) shall become a state highway and shall be placed under the jurisdiction of the Mississippi Transportation Commission for construction and maintenance.

SOURCES: Laws, 2000, 3rd Ex Sess, ch. 1, § 22, eff from and after passage (approved Nov. 6, 2000.)

§ 57-75-23. Construction of act.

The provisions of this act are cumulative of other statutes now or hereafter enacted relating to the authority, and the authority may exercise all presently held powers in the furtherance of this act. If any section, paragraph, sentence, clause, phrase or any part of the provisions of this act is declared to be unconstitutional or void, or for any reason is declared to be invalid or of no effect, the remaining sections, paragraphs, sentences, clauses and phrases shall in no manner be affected thereby but shall remain in full force and effect.

SOURCES: Laws, 1989, ch. 534, § 12, eff from and after passage (approved April 17, 1989).

§ 57-75-25. Derivation of income from issuance of bonds by certain persons.

No member of the Legislature, elected official or appointed official, or any partner or associate of any member of the Legislature, elected official or appointed official, shall derive any income from the issuance of any bonds under this act contrary to the provisions of Section 109, Mississippi Constitution of 1890, or Article 3, Chapter 4, Title 25, Mississippi Code of 1972.

SOURCES: Laws, 1989, ch. 534, § 13, eff from and after passage (approved April 17, 1989).

§ 57-75-27. Provision of buffer zone for NASA facility in Tishomingo County.

Notwithstanding any provision of Chapter 61, Title 57, Mississippi Code of 1972, to the contrary, the Mississippi Major Economic Impact Authority shall certify to the Department of Economic and Community Development the amount of money necessary for the Major Economic Impact Authority to purchase land in fee simple to provide a buffer zone for the National Aeronautics and Space Administration facility to be constructed in Tishomingo County, which amount shall not be more than Seven Million Dollars ($7,000,000.00); and the department shall, if funds have not otherwise been made available, provide a grant to the authority for such amount out of the proceeds of bonds issued under the Mississippi Business Investment Act. Any funds remaining unexpended after the purchase of land hereunder shall be deposited in the Mississippi Business Investment Sinking Fund. No funds in excess of the amount authorized in this section shall be expended pursuant to the Mississippi Business Investment Act for or in connection with the National Aeronautics and Space Administration facility to be constructed in Tishomingo County.

SOURCES: Laws, 1990, ch. 570, § 11; Laws, 1993, ch. 548, § 12, eff from and after passage (approved April 19, 1993).

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Laws of 1990, ch. 570, § 20, effective July 1, 1990, provides as follows:

"SECTION 20. (1) Any attorney's fees paid as the result of the issuance of bonds under this act shall be in compliance with the limits on attorney's fees for bond issues as adopted by the State Bond Commission. Attorney's fees paid as the result of the issuance of bonds under this act shall be subject to negotiation but in no event shall exceed the limits established by the State Bond Commission. A detailed accounting of all expenses incurred by all persons, firms, corporations, associations or other organizations involved in such bond issues shall be submitted to the State Bond Commission within ninety (90) days after the issuance of such bonds and shall be a matter of public record.

"(2) No member of the Legislature, elected official or appointed official, or any partner or associate of any member of the Legislature, elected official or appointed official, shall derive any income from the issuance of any bonds or the disposition of any property under this act contrary to the provisions of Section 109, Mississippi Constitution of 1890, or Article 3, Chapter 4, Title 25, Mississippi Code of 1972.

"(3) In connection with the issuance and sale of bonds authorized under this act, the State Bond Commission shall select a bond attorney or attorneys who are listed in the 'Directory of Municipal Bond Dealers of the United States' and who are members in good standing of the Mississippi State Bar Association and licensed to practice law in the State of Mississippi; however, upon a finding by the commission spread on its official minutes that the public interest will best be served thereby, the commission may select any bond attorney or attorneys listed in the 'Directory of Municipal Bond Dealers of the United States'."

Cross References — Mississippi Business Investment Act, see § 57-61-1 et seq.

§ 57-75-29. Repealed.

Repealed by Laws, 2002, ch. 423, § 1 eff from and after passage (approved Mar. 20, 2002).

[Laws, 1996, ch. 554, § 3; Laws, 2001, ch. 370, § 1; reenacted and amended, Laws, 2002, ch. 423, § 1, eff from and after passage (approved Mar. 20, 2002.)]

Editor's Note — Former § 57-75-29 was entitled: "Yellow Creek Regional Project Board.

§ 57-75-31. Repealed.

Repealed by operation of law, eff from and after July 1, 2004.

[Laws, 1996, ch. 554, § 4; Laws, 2003, ch. 441, § 2, eff from and after July 1, 2003.]

Editor's Note — Former § 57-75-31 provided for a Yellow Creek Project Area Fund. Laws of 2003, ch. 441, § 2, added a provision repealing the section effective from and after July 1, 2004.

§ 57-75-33. Counties and municipalities authorized to enter into agreements with enterprises operating certain projects, providing that no taxes, fees or assessments will be levied upon the enterprise other than those generally levied upon all taxpayers; counties and municipalities authorized to enter into fee in lieu of ad valorem taxes agreements.

The board of supervisors of a county or the governing authorities of a municipality may each enter into an agreement with an enterprise operating a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi), Section 57-75-5(f)(xxii) or Section 57-75-5(f)(xxviii), providing that the county or municipality will not levy any taxes, fees or assessments upon the enterprise other than taxes, fees or assessments that are generally levied upon all taxpayers and the board of supervisors or the governing authorities also may each enter into a fee-in-lieu agreement as provided in Section 27-31-104. Such agreements may be for a period not to exceed thirty (30) years.

SOURCES: Laws, 2000, 3rd Ex Sess, ch. 1, § 4; Laws, 2007, ch. 303, § 5; Laws, 2007, 1st Ex Sess, ch. 1, § 5; Laws, 2013, 1st Ex Sess, ch. 1, § 5, eff from and after passage (approved April 28, 2013.)

Amendment Notes — The 2013 amendment inserted "or Section 57-75-5(f)(xxviii)" in the first sentence.

§ 57-75-35. Counties and municipalities authorized to enter into agreements with enterprises operating certain projects, providing that a county or municipality will approve requests for exemption from ad valorem taxes by supplier.

The board of supervisors of a county or the governing authorities of a municipality may enter into an agreement with an enterprise operating a project as defined in Section 57-75-5(f)(iv)1, Section 57-75-5(f)(xxi) or 57-75-5 (f)(xxii), providing that the board of supervisors or governing authorities will agree in advance to approve any request for exemption from ad valorem taxes submitted by a supplier of such enterprise in the manner provided by law and that any such exemption shall be for a period of ten (10) years. Such an agreement on the part of the board of supervisors or governing authorities may be for a period not to exceed twenty (20) years.

SOURCES: Laws, 2000, 3rd Ex Sess, ch. 1, § 5; Laws, 2008, ch. 375, § 1, eff from and after passage (approved Mar. 31, 2008.)

§ 57-75-37. Certain counties authorized to contribute or lend funds to enterprises owning or operating certain projects; county may issue bonds to provide funds for such purposes; county may donate property for use in the location, construction, or operation of such projects; additional authority to acquire and contribute project sites, apply for grants and loans for project infrastructure, and enter into certain lease agreements.

(1)(a)(i) Any county in which there is to be constructed a project as defined in Section 57-75-5(f)(xviii) is authorized to assist in defraying the costs incurred or to be incurred by the enterprise establishing such project by:

1. Contributing a sum of up to Five Million Dollars ($5,000,000.00) to such enterprise for use in connection with the construction of the project; and/or

2. Lending a sum of up to Five Million Dollars ($5,000,000.00) upon such terms as the board of supervisors of such county and such enterprise may agree, the proceeds of which loan shall be used by such enterprise in connection with the construction or financing of the project.

(ii) In order to provide the amounts set forth in paragraph (a)(i) of this subsection (1), any such county may appropriate monies from the county's general funds or provide such amounts from the proceeds of general obligation bonds, or any combination of the foregoing. Any such county may issue the bonds for such purpose pursuant to the procedures for the issuance of bonds under Chapter 9, Title 19, Mississippi Code of 1972, or Section 19-5-99.

(b) The board of supervisors of any county may donate real property for use in the location, construction and/or operation of a project as defined under Section 57-75-5(f)(xviii) to one or more economic development authorities, economic development districts, industrial development authorities or similar public agencies created pursuant to state law that engage in economic or industrial development in the county, and any such public agencies may accept such donation of real property from the county. Such public agencies also may transfer and convey among themselves, with or without consideration being paid or received, real property to be used in the location, construction and/or operation of such a project, and may accept such transfers or donations.

(2) Any county or municipality in which there is to be constructed a project as defined in Section 57-75-5(f)(xxvi) or 57-75-5(f)(xxvii) is authorized to:

(a) Acquire the site for such project and contribute the site to the enterprise owning or operating the project;

(b) Apply for grants and loans and utilize the proceeds of such grants and loans for infrastructure related to the project; and

(c) Enter into a lease agreement with the enterprise owning or operating the project for a term not to exceed ninety-nine (99) years.

(3)(a) As used in this subsection:

(i) "Project" shall have the meaning ascribed to such term in Section 57-75-5(f)(xxviii).

(ii) "Public agency" means the county in which the project is located, any municipality located in the county, and/or any economic development authority, economic development district, industrial development authority or similar public agency created pursuant to state law that engages in economic or industrial development in the county or a municipality in the county.

(b) Any county in which there is to be located a project is authorized to assist as provided in this paragraph in defraying the costs incurred or to be incurred by the enterprise establishing the project and any public agency in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project. The county may provide such assistance by contributing or lending any sum approved for such purpose by the board of supervisors of the county, upon such terms as the board of supervisors may agree, to the entity that directly or indirectly incurs or will incur such costs or as otherwise provided in paragraph (c) of this subsection. The proceeds of the contribution or loan shall be used by the recipient in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project.

(c) In order to provide the amounts set forth in paragraph (b) of this subsection, any such county may appropriate monies from the county's general funds or provide such amounts from the proceeds of general obligation bonds, or any combination of the foregoing. Any such county may issue the bonds for such purpose pursuant to the procedures for the issuance of bonds under Chapter 9, Title 19, Mississippi Code of 1972, or Section 19-5-99.

(d) In any county in which there is to be located a project, the governing authorities of any public agency may:

(i) Transfer and convey to the authority or the Mississippi Development Authority, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of the project or any facilities or public infrastructure related to the project, and the authority and the Mississippi Development Authority may accept such transfers or donations;

(ii) Transfer and convey among themselves, with or without consideration being paid or received, any real and/or personal property for use in connection with the location, construction and/or operation of a project or any facilities or public infrastructure related to the project, and may accept such transfers or donations; and

(iii) Make grants or other contributions of funds to one another for use in connection with the location, construction and/or operation of such a project or any facilities or public infrastructure related to the project, and may accept such grants or contributions of funds.

(e) In any county in which there is to be located a project, the person, entity or other agency seeking to acquire any real property to be used in connection with the location, construction and/or operation of the project, shall be exempt with respect to such property from the requirements of Section 43-37-3(b) and (c) if the purchase price for such property equals the lowest price negotiated between the owner of the property and the person, agency or other entity seeking to acquire the property, and at which the owner of the property is willing to sell the property.

(4) The powers and authority granted in this section are an additional, alternative and supplemental method for the doing of the things authorized by this section and are additional and supplemental to, and not in derogation of, any other powers conferred by law.

SOURCES: Laws, 2005, ch. 315, § 8; Laws, 2010, ch. 301, § 5; Laws, 2010, ch. 405, § 5; Laws, 2013, 1st Ex Sess, ch. 1, § 6, eff from and after passage (approved April 28, 2013.)

Joint Legislative Committee Note — Section 5 of ch. 405, Laws of 2010, effective upon passage (approved March 17, 2010), amended this section. Section 5 of ch. 301, Laws of 2010, effective upon passage (approved January 12, 2010), also amended this section. As set out above, this section reflects the language of Section 5 of ch. 405, Laws of 2010, which contains language that specifically provides that it supersedes § 57-75-37 as amended by Laws of 2010, ch. 301.

Amendment Notes — The 2013 amendment inserted the "(i)" designator in the first paragraph, redesignated former (2) as (1)(b), added (3) and redesignated the remaining subdivisions accordingly and made minor stylistic changes throughout.

CHAPTER 77

Venture Capital Act of 1994

Sec.

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§ 57-77-1. Short title.

This chapter shall be known, and may be cited, as the "Venture Capital Act of 1994."

SOURCES: Laws, 1994, ch. 650, § 1, eff from and after passage (approved April 8, 1994).

§ 57-77-2. Legislative intent.

The Legislature finds that the Venture Capital Act of 1994, Sections 57-77-1 through 57-77-39, Mississippi Code of 1972, has not been implemented in accordance with the legislative intent. The Legislature finds that the Venture Capital Act of 1994 needs to be amended for the purpose of clarifying the legislative intent and for the further purpose of ensuring public trust in the venture capital loan program by providing safeguards in the operation of the program and over the proper administration of the use of public funds. The Legislature finds that persons are purporting to serve on the Magnolia Capital Corporation Board of Directors and the Magnolia Venture Capital Corporation Board of Directors in violation of the legislative intent of the Venture Capital Act of 1994. Pursuant to Section 178 of the Mississippi Constitution of 1890, the Legislature finds that it is in the public interest to amend the charters of incorporation of the Magnolia Capital Corporation and the Magnolia Venture Capital Corporation which were authorized to be formed under the provisions of the Venture Capital Act of 1994, and the amendments made to Sections 57-77-9 and 57-77-11 by Chapter 563, Laws of 1998, shall be amendments to the charters of incorporation of the Magnolia Capital Corporation and the Magnolia Venture Capital Corporation.

SOURCES: Laws, 1998, ch. 563, § 1, eff from and after passage (approved April 17, 1998).

Editor's Note — Laws of 1998, ch. 563, § 12 provides as follows:
"SECTION 12. Nothing in this act shall be construed as relieving or exempting anyone from liability both civil and criminal."

§ 57-77-3. Purpose of chapter; entities as instrumentalities of the state; sovereign immunity.

It is the purpose of this chapter to establish the Magnolia Capital Corporation, the Magnolia Venture Capital Corporation and the Magnolia Venture Capital Fund Limited Partnership for the purposes of increasing the rate of capital formation; stimulating new growth-oriented business formations; creating new jobs for Mississippi; developing new technology; enhancing tax revenue for the state; and supplementing conventional business financing. The Magnolia Capital Corporation, the Magnolia Venture Capital Corporation, and the Magnolia Venture Capital Fund Limited Partnership shall be instrumentalities of the State of Mississippi and their operations and activities shall be subject to review by the State Auditor of Public Accounts, the Attorney General of Mississippi, the Mississippi Ethics Commission, the Joint Legislative Committee on Performance Evaluation and Expenditure Review, and any other state officer or agency as provided by law. Funds obtained from the special fund in the State Treasury known as the Venture Capital Fund and any earnings on such amounts, which are held and disbursed by the Magnolia Capital Corporation, the Magnolia Venture Capital Corporation and/or the Magnolia Venture Capital Fund Limited Partnership, except funds invested by private limited partners, shall remain, and shall be considered to be, public funds. Funds loaned by the department pursuant to Section 57-77-17, and all earnings on such funds shall remain, and shall be considered to be, public funds. Except as provided in Section 57-77-33(7), it is, and has always been, the intent of the Legislature that nothing in this chapter shall be construed to waive the sovereign immunity of the State of Mississippi or the department pursuant to either state law or the Eleventh Amendment to the United States Constitution. It is, and has always been, the intent of the Legislature that no action by the State of Mississippi or by the department, or by any officer or agent of the State of Mississippi or of the department, shall be considered a waiver of the sovereign immunity of the State of Mississippi or the department pursuant to either state law or the Eleventh Amendment to the United States Constitution. It is, and has always been, the intent of the Legislature that the entering into of any contract, loan agreement, pledge agreement, or other instrument by the State of Mississippi or the department shall not be considered a waiver of the sovereign immunity of the State of Mississippi pursuant to either state law or the Eleventh Amendment to the United States Constitution. It is, and has always been, the intent of the Legislature that the sovereign immunity of the State of Mississippi pursuant to either state law or the Eleventh Amendment to the United States Constitution may only be waived by express authorization set forth in an enactment of the Mississippi Legislature.

SOURCES: Laws, 1994, ch. 650, § 2; Laws, 1998, ch. 563, § 2, eff from and after passage (approved April 17, 1998).

Editor's Note — Laws of 1998, ch. 563, § 12 provides as follows:

"SECTION 12. Nothing in this act shall be construed as relieving or exempting anyone from liability both civil and criminal."

Section 7-7-2 provides that the words "State Auditor of Public Accounts," "State Auditor" and "Auditor" appearing in the laws of this state in connection with the performance of Auditor's functions shall mean the State Fiscal Officer.

Section § 27-104-6, provides that wherever the term "State Fiscal Officer" appears in any law it shall mean "Executive Director of the Department of Finance and Administration."

ATTORNEY GENERAL OPINIONS

Magnolia Venture Capital Corporation is acting as an instrumentality of the State of Mississippi. See Section 57-77-3. Williams, December 20, 1996, A.G. Op. #96-0834.

§ 57-77-5. Definitions.

The following words shall have the meaning ascribed herein unless the context clearly requires otherwise:

(a) "Fund" means the Magnolia Venture Capital Fund Limited Partnership, a limited partnership, established and operated as described in this chapter.

(b) "Corporation" means the Magnolia Capital Corporation.

(c) "Qualified investment" means a qualified interest, which interest is purchased solely for cash in an amount not less than Ten Thousand Dollars ($10,000.00) for individuals; and not less than Fifty Thousand Dollars ($50,000.00) for corporations.

(d) "General partner" means the Magnolia Venture Capital Corporation.

(e) "Qualified interest" means, in the case of the Magnolia Venture Capital Corporation, a general partnership interest in the fund and, in the case of all other persons, a limited partnership interest in the fund.

(f) "State tax liability" means a taxpayer's total income tax liability that is incurred under the Mississippi Income Tax Law before applying the credits provided by Section 27-7-22.11.

(g) "Taxpayer" means any individual, corporation, partnership, trust or other entity that has any state tax liability and has made a qualified investment.

(h) "Venture capital" means investments in either common stock, preferred stock, or bonds convertible to either common or preferred stock, or options, warrants or rights to receive any of the foregoing, or any other similar investment in or loan to a Mississippi business.

(i) "Mississippi business" means a corporation, general partnership, limited partnership, joint venture, trust, proprietorship or any other similar entity or organization which is either established and operating, or will be established to operate, in Mississippi.

(j) "Start-up business" means a Mississippi business which is in the first thirty-six (36) months of providing goods or services in the ordinary course of business or a Mississippi business which qualified as a start-up business under this definition at the time it entered the venture capital fund portfolio.

(k) "Program" means the venture capital loan program established in this chapter.

(*l*) "Seller" means the State Bond Commission.

(m) "Department" means the Mississippi Department of Economic and Community Development.

(n) "General Fund" means the General Fund of the State of Mississippi.

(o) "Loan" means a loan by the department to Magnolia Capital Corporation in accordance with this chapter.

(p) "Appointing authority" means the Governor or the Lieutenant Governor, as appropriate, in appointing members to the board of directors of the Magnolia Venture Capital Corporation.

SOURCES: Laws, 1994, ch. 650, § 3; Laws, 1998, ch. 563, § 3, eff from and after passage (approved April 17, 1998).

Editor's Note — Laws of 1998, ch. 563, § 12 provides as follows:

"SECTION 12. Nothing in this act shall be construed as relieving or exempting anyone from liability both civil and criminal."

Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere

the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

Mississippi Development Authority generally, see §§ 57-1-1 et seq.

§ 57-77-7. Taxpayer entitlement to credit against state tax liability.

A taxpayer is entitled to a credit, determined in accordance with Section 27-7-22.11, which must be applied against the state tax liability which may be imposed on the taxpayer.

SOURCES: Laws, 1994, ch. 650, § 4, eff from and after passage (approved April 8, 1994).

§ 57-77-9. Formation of Magnolia Capital Corporation; officers and directors; bylaws and articles of incorporation; general powers and duties; meetings; replacement of directors; dissolution of Magnolia Venture Capital Corporation and fund.

(1) The Magnolia Capital Corporation shall be formed and operated pursuant to the laws of this state. The articles of incorporation, bylaws and any other agreement relating to the organization or operation of the corporation must comply with the provisions set forth in this section. The corporation will be a not-for-profit corporation.

(2) The executive director of the department shall cause the corporation to be formed, and he shall designate the incorporators. The initial board of directors shall consist of thirteen (13) members, all of whom will be appointed by the executive director of the department. Except as otherwise provided in this subsection (2), members of the initial board of directors shall serve staggered terms as follows: four (4) for terms of five (5) years each, three (3) for terms of four (4) years each, three (3) for terms of three (3) years each and three (3) for terms of two (2) years each. The terms of the members of the board of directors in place (including any initial directors and successors) before April 17, 1998, shall expire on April 17, 1998, and such persons shall cease to serve on the board of directors and shall relinquish all powers and control of the corporation and assets of the corporation. From and after April 17, 1998, the board of directors shall consist of three (3) members who shall be the State Treasurer, the Attorney General and Secretary of State. If the position on the board of directors held by the State Treasurer, Attorney General or Secretary of State, becomes vacant through death, resignation or otherwise, the position will be filled by the person acting as State Treasurer, Attorney General or Secretary of State, as appropriate, until the Office of State Treasurer, Attorney General or Secretary of State, as appropriate, is filled in the manner provided by law. The directors may not receive per diem.

(3) The articles of incorporation shall provide that the name of the corporation is the "Magnolia Capital Corporation," and the registered agent shall be designated by the executive director of the department. The corporation's existence begins upon filing of the articles of incorporation. The corporation's existence is perpetual, unless dissolved as provided herein. The general nature of the business of the corporation is to serve as the sole stockholder of the Magnolia Venture Capital Corporation. Consistent with the provisions of this chapter, the bylaws, the organizational minutes, the election of officers, and any other actions appropriate or necessary for the organization and operation of the corporation shall be of that form and content as determined by the board of directors. Nothing contained in this chapter may prohibit the board of directors of the corporation from altering, amending or otherwise modifying the articles of incorporation, bylaws or any other agreement governing the corporation as otherwise permitted under the laws of this state, except that the method of electing directors may not be amended, altered or otherwise modified or restricted; except that the general nature of the business of the corporation may not be amended, altered or otherwise modified or restricted; and except that the corporation may be dissolved, merged or otherwise cease to exist pursuant to the appropriate vote of the board of directors. The executive director of the department may expend any discretionary funds he has available and considers appropriate for the purpose of organizing the corporation.

(4) In addition to other powers and duties, the corporation may take all actions it deems necessary to carry out the provisions of this chapter, and the board of directors shall meet at least one (1) time on a quarterly basis to assess the venture capital loan program and whether or not the provisions of this chapter are being complied with. In addition to any other powers and duties, if the corporation determines, as evidenced by a majority vote of the board of directors, that any member of the Magnolia Venture Capital Corporation board of directors is not performing the duties of such member in a manner consistent with the provisions of this chapter, the corporation may recommend to the appropriate appointing authority that such member of the Magnolia Venture Capital Corporation board of directors be replaced.

(5) As soon as legally permissible after April 17, 1998, the corporation shall direct the board of directors of the Magnolia Venture Capital Corporation to dissolve the Magnolia Venture Capital Corporation and the fund.

SOURCES: Laws, 1994, ch. 650, § 6; Laws, 1998, ch. 563, § 4, eff from and after passage (approved April 17, 1998).

Editor's Note — Laws of 1998, ch. 563, § 12 provides as follows:

"SECTION 12. Nothing in this act shall be construed as relieving or exempting anyone from liability both civil and criminal."

§ 57-77-11. Formation of Magnolia Venture Capital Corporation; officers and directors; bylaws and articles of incorporation; general powers and duties; replacement of directors; dissolution of Magnolia Venture Capital Corporation and fund.

(1) The Magnolia Venture Capital Corporation shall be formed and operated pursuant to the laws of this state. The articles of incorporation, bylaws and any other agreement relating to the organization or operation of the Magnolia Venture Capital Corporation must comply with the provisions set forth in this section. The Magnolia Venture Capital Corporation will be a for profit corporation.

(2) The executive director of the department shall cause the Magnolia Venture Capital Corporation to be formed, and he shall designate the incorporators. The initial board of directors shall consist of five (5) members, all of whom will be appointed by the executive director of the department. Except as otherwise provided in this subsection (2), members of the initial board of directors shall serve staggered terms as follows: three (3) for terms of five (5) years each and two (2) for terms of three (3) years each. The terms of the members of the board of directors in place (including any initial directors and successors), shall expire on April 17, 1998, and such persons shall cease to serve on the board of directors and shall relinquish all powers and control of the corporation and assets of the corporation. From and after April 17, 1998, the board of directors shall be composed of five (5) members, three (3) of whom shall be appointed by the Governor and two (2) of whom shall be appointed by the Lieutenant Governor. Members of the initial board, appointed from and after April 17, 1998, shall serve staggered terms as follows: one (1) member appointed by the Governor for a term of one (1) year, one (1) member appointed by the Governor for a term of two (2) years, one (1) member appointed by the Governor for a term of three (3) years, one (1) member appointed by the Lieutenant Governor for a term of four (4) years, and one (1) member appointed by the Lieutenant Governor for a term of five (5) years. If the position of an initial director, appointed from and after April 17, 1998, becomes vacant through death, resignation or otherwise, the appropriate appointing authority shall appoint another person to complete the unexpired term. If the position of a successor director becomes vacant through death, resignation or otherwise, the appropriate appointing authority shall appoint another person to complete the unexpired term. After the terms of the initial directors, appointed from and after April 17, 1998, expire, successors shall be chosen by the appropriate appointing authority and shall serve for terms of five (5) years. The appropriate appointing authority may remove a member of the board of directors if, in the opinion of the appointing authority, the board member is not performing his or her duties in a manner consistent with the provisions of this chapter. Members of the initial board, appointed from and after April 17, 1998, and successor directors are eligible to succeed themselves if reappointed by the appropriate appointing authority. The Speaker of the House of Representa-

tives shall appoint two (2) nonvoting advisory members to the board. Such nonvoting advisory members shall serve for terms concurrent with the term of the Speaker of the House of Representatives. If the position of an advisory member becomes vacant through death, resignation or otherwise, the Speaker shall appoint another person to complete the unexpired term. Members of the board shall receive a per diem as provided in Section 25-3-69, for each day or fraction thereof in performance of their duties, and shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties as provided in Section 25-3-41. Members of the board shall receive no compensation other than that provided in this subsection (2). If a director is a full-time state employee, he may not receive per diem.

(3) The articles of incorporation shall provide that the name of the entity is the "Magnolia Venture Capital Corporation," and the registered agent shall be designated by the executive director of the department. The Magnolia Venture Capital Corporation's existence begins upon filing of the articles of incorporation. The Magnolia Venture Capital Corporation's existence is perpetual, unless dissolved as provided herein. The Magnolia Venture Capital Corporation is authorized to issue shares of a number, class and par or no-par value as provided in its articles of incorporation. The general nature of the business of the Magnolia Venture Capital Corporation is to serve as general partner of the Magnolia Venture Capital Fund Limited Partnership, to provide venture capital to Mississippi businesses, to provide financing to high-growth oriented businesses, and to undertake any acts appropriate or necessary to carry out the foregoing. Consistent with the provisions of this chapter, the bylaws, the organizational minutes, the election of officers, the issuance of any stock of the Magnolia Venture Capital Corporation, and any other actions appropriate or necessary for the organization and operation of the Magnolia Venture Capital Corporation shall be of that form and content as determined by the board of directors. Nothing contained in this chapter may prohibit the shareholders or board of directors of the corporation from altering, amending or otherwise modifying the articles of incorporation, bylaws or any other agreement governing the Magnolia Venture Capital Corporation as otherwise permitted under the laws of this state, except that the method of electing directors shall not be amended, altered or otherwise modified; except that the general nature of the business of the Magnolia Venture Capital Corporation may not be amended, altered or otherwise modified or restricted; and except that the Magnolia Venture Capital Corporation may be dissolved, merged or otherwise cease to exist pursuant to the appropriate vote of the board of directors and shareholders. The executive director of the department may expend any discretionary funds he has available and considers appropriate for the purpose of organizing the Magnolia Venture Capital Corporation and promoting the sale of the qualified investments.

(4) The Magnolia Venture Capital Corporation shall cause the fund to be formed as a limited partnership. The partnership agreement relating to the organization and operation of the fund must be of that form and content as determined by the board of directors of the Magnolia Venture Capital Corpo-

ration. The Magnolia Venture Capital Corporation shall be the sole general partner of the fund, and the initial limited partner shall be a person or entity designated by the Magnolia Venture Capital Corporation's board of directors. Additional limited partners may be admitted to the fund in accordance with the terms of the partnership agreement.

(5) Except as otherwise provided in subsection (8), the fund shall raise funds to provide financing to high-growth oriented businesses. A "high-growth oriented business" is a corporation, general partnership, limited partnership, joint venture, trust, proprietorship, or other similar entity or organization which is expected to experience significant sales growth over the subsequent five-year period. All investments made from investment monies raised by the fund, for which the tax credit provided by this chapter is allowed and for which the tax credit is made available by the fund in the prospectus or offering, must be made to provide venture capital to Mississippi businesses, this venture capital to be used primarily for the purpose of enhancing the production capacity of these businesses or their ability to do business in Mississippi. Seventy percent (70%) of these investment monies acquired by the fund for which the tax credit is allowed and available must be invested to provide venture capital financing of start-up businesses. The remaining thirty percent (30%) may be invested as the general partner of the fund determines to provide capital to Mississippi businesses.

(6)(a) No business may be transacted or indebtedness incurred (not including indebtedness authorized to be incurred in Sections 57-77-15 and 57-77-17) except that as is incidental to the organization of the Magnolia Venture Capital Corporation or of the fund or to obtaining subscriptions to or payment for qualified interests, until consideration of Four Million Five Hundred Thousand Dollars ($4,500,000.00) has been paid as a capital investment by a private investor or private investors to Magnolia Venture Capital Corporation or to the fund. It is the intent of the Legislature that the Magnolia Venture Capital Corporation and/or the fund shall always maintain a capital investment from a private investor or private investors of at least Four Million Five Hundred Thousand Dollars ($4,500,000.00). If the Magnolia Venture Capital Corporation and/or the fund fail to obtain a capital investment from a private investor or private investors of at least Four Million Five Hundred Thousand Dollars ($4,500,000.00), or if after having obtained such investment, the total of the private capital investments ever falls below Four Million Five Hundred Thousand Dollars ($4,500,000.00), Magnolia Venture Capital Corporation and the fund shall suspend making investments and incurring indebtedness, and, if so directed by Magnolia Capital Corporation, the board of directors of Magnolia Venture Capital Corporation shall dissolve Magnolia Venture Capital Corporation and the fund in the manner provided by law and direct that all sums, causes of action and other assets held by the Magnolia Venture Capital Corporation and the fund be paid and/or assigned to the State Treasurer who shall administer such sums and other assets as provided by law.

(b) If directed by Magnolia Capital Corporation pursuant to Section 57-77-9(5), the board of directors of Magnolia Venture Capital Corporation shall dissolve Magnolia Venture Capital Corporation and the fund in the manner provided by law and direct that all sums, causes of action and other assets held by the Magnolia Venture Capital Corporation and the fund be paid and/or assigned to the State Treasurer who shall administer such sums and other assets as provided by law.

(7) All securities issued by either the Mississippi Venture Capital Corporation or the fund shall be exempt securities with regard to the Mississippi Uniform Securities Act.

SOURCES: Laws, 1994, ch. 650, § 7; Laws, 1998, ch. 563, § 5, eff from and after passage (approved April 17, 1998).

Editor's Note — Laws, 1998, ch. 563, § 12 provides as follows:

"SECTION 12. Nothing in this act shall be construed as relieving or exempting anyone from liability both civil and criminal."

Subsection (5) of this section contains a reference to a subsection (8), but there is no subsection (8) in this section. This section appears as amended by Laws of 1998, ch. 563, § 5.

ATTORNEY GENERAL OPINIONS

Magnolia Venture Capital Corporation was created by statute as a for profit corporation with a board of directors and articles of incorporation. See Section 57-77-11. There is no provision for appointment of subordinate staff by MVCC or its head. Considering these facts and circumstances, MVCC is not a state agency. Williams, December 20, 1996, A.G. Op. #96-0834.

§ 57-77-13. Exemption from taxation and license fees of Magnolia Venture Capital Corporation.

Magnolia Venture Capital Corporation, but not the shareholders thereof, is exempt from all state income taxes and corporate license fees.

SOURCES: Laws, 1994, ch. 650, § 8, eff from and after passage (approved April 8, 1994).

§ 57-77-15. Magnolia Capital Corporation to apply to department for loan.

The Magnolia Capital Corporation shall make application for a loan to the department in a form satisfactory to the department.

SOURCES: Laws, 1994, ch. 650, § 9, eff from and after passage (approved April 8, 1994).

§ 57-77-17. Terms and conditions of loan to Magnolia Capital Corporation.

The department shall lend funds under this chapter to Magnolia Capital Corporation in accordance with the following terms and conditions:

(a) Loan funds received by Magnolia Capital Corporation in accordance with this chapter shall remain, and shall be considered to be, public funds and shall be used for the purpose of providing venture capital to Mississippi businesses through the Mississippi Venture Capital Fund Limited Partnership;

(b) The loan agreement between the department and Magnolia Capital Corporation shall contain language necessary to effect the escrow of a portion of the loan in an account for the benefit of the department which, when the monies are invested in zero coupon bonds for a period not to exceed fifteen (15) years, shall mature at a value equal to or greater than one hundred percent (100%) of the total principal amount loaned to Magnolia Venture Capital Corporation;

(c) The interest rate on the loan to Magnolia Capital Corporation shall be set by the executive director of the department; and

(d) Funds received by the Magnolia Venture Capital Corporation and/or the Magnolia Venture Capital Fund Limited Partnership shall be subject to any loan agreement made between the department and the Magnolia Capital Corporation pursuant to this chapter; and, in the event of default on such loan agreement, such funds shall, upon demand of the department, be returned to the Venture Capital Fund in the State Treasury, regardless of whether or not the Magnolia Venture Capital Corporation or the Magnolia Venture Capital Fund Limited Partnership was a party to any loan agreement evidencing any such loan.

SOURCES: Laws, 1994, ch. 650, § 10; Laws, 1998, ch. 563, § 6, eff from and after passage (approved April 17, 1998).

Editor's Note — Laws of 1998, ch. 563, § 12 provides as follows:
"SECTION 12. Nothing in this act shall be construed as relieving or exempting anyone from liability both civil and criminal."

§ 57-77-19. Assistance of Magnolia Capital Corporation with program compliance.

The department shall assist the Magnolia Capital Corporation with such corporation's compliance with the program provided for in this chapter.

SOURCES: Laws, 1994, ch. 650, § 11, eff from and after passage (approved April 8, 1994).

§ 57-77-21. Reports by Magnolia Capital Corporation.

Magnolia Capital Corporation shall submit the following reports to the department:

(a) An annual audit of loan funds received in connection with the program;

(b) Quarterly reports describing all venture capital assistance provided to businesses by Magnolia Venture Capital Corporation and the fund, such reports to include at least the following: a description of the business receiving assistance, the project to be assisted and the purpose of such assistance; a description of each loan and equity investment, including the terms and conditions thereof and use of the venture fund's assistance by the business; history of the assistance pool, including amounts expended for administration and management, principal amount of equity investments, losses, loans and other relevant data.

SOURCES: Laws, 1994, ch. 650, § 12; Laws, 1998, ch. 563, § 7, eff from and after passage (approved April 17, 1998).

Editor's Note — Laws of 1998, ch. 563, § 12 provides as follows:
"SECTION 12. Nothing in this act shall be construed as relieving or exempting anyone from liability both civil and criminal."

§ 57-77-23. Authority of corporations to engage professional services.

Subject to the provisions of this section, Magnolia Capital Corporation and Magnolia Venture Capital Corporation are hereby authorized to engage legal counsel, accountants, financial advisors, appraisers, consultants and others as needed in connection with providing venture capital to businesses pursuant to this chapter, and to charge the costs of these services to the businesses receiving such assistance or charge the proceeds of such assistance therefor. However, no such professional services may be engaged unless done so through action taken by a validly appointed board of directors having the legal authority to engage such services. To the extent required by the department, such professional services shall be engaged on a statewide program basis.

SOURCES: Laws, 1994, ch. 650, § 13; Laws, 1998, ch. 563, § 8, eff from and after passage (approved April 17, 1998).

Editor's Note — Laws of 1998, ch. 563, § 12 provides as follows:
"SECTION 12. Nothing in this act shall be construed as relieving or exempting anyone from liability both civil and criminal."

§ 57-77-25. Adoption of eligibility criteria, timetable and report forms governing Magnolia Capital Corporation participation in venture capital loan program; adoption of applications, forms, procedures and requirements by Magnolia Venture Capital Corporation.

(1) The department shall adopt and publish the eligibility criteria for Magnolia Capital Corporation to participate in the program as set forth in this chapter, a timetable and process for review of applications from Magnolia Capital Corporation, and program report forms, all in accordance with this chapter; provided, however, that Magnolia Venture Capital Corporation shall recommend to Magnolia Capital Corporation the approval of assistance under this chapter, and Magnolia Capital Corporation shall have sole authority over

the approval of assistance provided under this chapter, and Magnolia Venture Capital Corporation shall have sole authority over the management of the assistance provided under this chapter.

(2) Magnolia Venture Capital Corporation shall prepare and adopt such uniform applications, forms, procedures and requirements for use in connection with the program as it deems necessary and appropriate.

SOURCES: Laws, 1994, ch. 650, § 14; Laws, 1998, ch. 563, § 9, eff from and after passage (approved April 17, 1998).

Editor's Note — Laws of 1998, ch. 563, § 12 provides as follows:
"SECTION 12. Nothing in this act shall be construed as relieving or exempting anyone from liability both civil and criminal."

§ 57-77-27. Certification of nondiscrimination as condition to assistance to business.

No assistance shall be provided to a business under this chapter unless the business certifies to the Magnolia Venture Capital Corporation, in a form satisfactory to the department, that it will not discriminate against any employee or against any applicant for employment because of race, religion, color, national origin, sex or age.

SOURCES: Laws, 1994, ch. 650, § 15, eff from and after passage (approved April 8, 1994).

§ 57-77-29. Creation of Venture Capital Fund; deposits and disbursements; disposition of funds for repayment of bonds; use of remaining monies; receipt and use of monetary and nonmonetary assets.

(1) There is hereby created a special fund in the State Treasury, to be known as the Venture Capital Fund, out of which loans to Magnolia Capital Corporation authorized in connection with the program shall be disbursed. All monies received by issuance of bonds to carry out the purposes of this chapter shall be deposited into the Venture Capital Fund. No funds in the Venture Capital Fund, no funds transferred from the Venture Capital Fund to the department for subsequent transfer to the Magnolia Capital Corporation, no funds transferred to the Magnolia Capital Corporation, and no funds transferred by the Magnolia Capital Corporation to the Magnolia Venture Capital Corporation and/or the Magnolia Venture Capital Fund Limited Partnership may be used to provide financing for, or to contract for goods or services with, any business in which a director, employee, or limited partner of the Magnolia Capital Corporation, the Magnolia Venture Capital Corporation or the Magnolia Venture Capital Fund Limited Partnership, or the spouse of any such director, employee or limited partner has a direct or indirect interest. No funds in the Venture Capital Fund, no funds transferred from the Venture Capital Fund to the department for subsequent transfer to the Magnolia Capital

Corporation, no funds transferred to the Magnolia Capital Corporation, and no funds transferred by the Magnolia Capital Corporation to the Magnolia Venture Capital Corporation and/or the Magnolia Venture Capital Fund Limited Partnership may be used to provide financing for, or to contract for goods or services with, any business in which a person who has been engaged pursuant to Section 57-77-23 or the spouse of such person has a direct or indirect interest.

(2) All funds repaid to the State Treasury under this chapter or designated hereunder for repayment of any bonds issued under this chapter shall be delivered to the State Treasurer for deposit in the State General Fund. Any monetary assets received pursuant to Section 57-77-11(6)(a) shall be applied to pay the debt service on the bonds issued under the Venture Capital Act of 1994, in accordance with the proceedings authorizing the issuance of such bonds and as directed by the State Bond Commission. Any nonmonetary assets shall be administered in the manner provided by law. Any monies remaining in the fund after it is utilized as provided for in this subsection (2) shall be deposited into the State General Fund.

(3) Any monetary assets received pursuant to Section 57-77-11(6)(b) shall be applied to pay valid monetary obligations of the Magnolia Capital Corporation and the Magnolia Venture Capital Corporation. Any nonmonetary assets shall be administered in the manner provided by law. Any monies remaining in the fund after it is utilized as provided in this subsection (3) shall be deposited as follows: (a) Six Million Four Hundred Thousand Dollars ($6,400,000.00) of such monies shall be deposited into the State General Fund and (b) the remainder of such monies shall be deposited into the Budget Contingency Fund created in Section 27-103-301.

(4) Valid monetary obligations of the Magnolia Capital Corporation and the Magnolia Venture Capital Corporation shall not be impaired and shall be satisfied from the special fund created in this section.

SOURCES: Laws, 1994, ch. 650, § 16; Laws, 1998, ch. 563, § 10; Laws, 2001, ch. 598, § 1, eff from and after passage (approved Apr. 16, 2001.)

Editor's Note — Laws of 1998, ch. 563, § 12 provides as follows:

"SECTION 12. Nothing in this act shall be construed as relieving or exempting anyone from liability both civil and criminal."

Cross References — State Bond Commission generally, see §§ 31-17-1 et seq.

§ 57-77-31. Redemption, repayment, purchase or cancellation of bonds and notes; appropriations for payment of principal and interest on bonds and notes; rate of interest on loans made using funds from Venture Capital Fund.

(1) All bonds issued under the authority of this chapter shall be redeemed at maturity, together with all interest due, from time to time, on the bonds, and these principal and interest payments shall be paid from the general fund.

(2) In the event that all or any part of the bonds and notes are purchased, they shall be canceled and returned to the loan and transfer agent as canceled

and paid bonds and notes; and, thereafter, all payments of interest thereon shall cease and the canceled bonds, notes and coupons shall be destroyed as promptly as possible after cancellation but not later than two (2) years after cancellation. A certificate evidencing the destruction of the canceled bonds, notes and coupons shall be provided by the loan and transfer agent to the seller.

(3) The State Treasurer shall determine and report to the Department of Finance and Administration and Joint Legislative Budget Office by September 1 of each year the amount of money necessary for the payment of the principal of and interest on outstanding obligations for the following fiscal year and the times and amounts of the payments. It shall be the duty of the Governor to include in every executive budget submitted to the Legislature full information relating to the issuance of bonds and notes under the provisions of this chapter and the status of the general fund for the payment of the principal of and interest on the bonds and notes.

(4) Except as otherwise provided by law, the rate of interest on any loans made using funds from the Venture Capital Fund shall be in accordance with Section 57-77-17. Notwithstanding the provisions of any other law to the contrary, the interest rate charged shall not be set such that the aggregate of the interest, penalties and other payments in connection with such assistance made using funds from the Venture Capital Fund will cause the bonds issued pursuant to this chapter to be deemed arbitrage bonds pursuant to Section 148 of the Internal Revenue Code of 1986 and the regulations promulgated thereunder. In the case of assistance initially funded from the proceeds of notes and subsequently funded from renewal bonds and notes, the interest rate to be charged on the assistance shall be established in accordance with Section 57-77-17 upon the sale of bonds or notes, as the case may be, for such assistance.

SOURCES: Laws, 1994, ch. 650, § 17, eff from and after passage (approved April 8, 1994).

Federal Aspects — Section 148 of Internal Revenue Code of 1986, see 26 USCS § 148.

§ 57-77-33. Issuance of bonds and notes generally; terms, form, execution, etc., of bonds and notes.

(1) The seller is authorized to borrow, on the credit of the state, money not exceeding the aggregate sum of Twenty Million Dollars ($20,000,000.00). Such borrowing may be evidenced by the issuance of bonds or notes, and the rate of interest on any such bonds or notes which are not subject to taxation shall not exceed the rates set forth in Section 75-17-101, Mississippi Code of 1972, for general obligation bonds.

(2) As evidence of indebtedness authorized in this chapter, general or limited obligation bonds or notes of the state shall be issued from time to time to provide monies necessary to carry out the purposes of this chapter for such

total amount, in such form, in such denominations, payable in such currencies (either domestic or foreign or both), and subject to such terms and conditions of issue, redemption and maturity, rate of interest and time of payment of interest as the seller directs, except that such bonds shall mature or otherwise be retired in annual installments beginning not more than five (5) years from date thereof and extending not more than twenty (20) years from the date thereof.

(3) All bonds and notes issued under authority of this chapter shall be signed by the chairman of the seller, or by his facsimile signature, and the official seal of the seller shall be affixed thereto, attested by the secretary of the seller.

(4) All bonds and notes issued under authority of this chapter may be general or limited obligations of the state, and the full faith and credit of the State of Mississippi as to general obligation bonds, or the revenue derived from projects assisted as to limited obligation bonds, are hereby pledged for the payment of the principal of and interest on such bonds and notes.

(5) Such bonds and notes and the income therefrom shall be exempt from all taxation in the State of Mississippi.

(6) Bonds may be issued as coupon bonds or registered as to both principal and interest as the seller may determine. If interest coupons are attached, they shall contain the facsimile signature of the chairman and the secretary of the seller.

(7) As to bonds issued hereunder and designated as taxable bonds by the seller, any immunity of the state to taxation by the United States government of interest on bonds or notes issued by the state is hereby waived.

SOURCES: Laws, 1994, ch. 650, § 18, eff from and after passage (approved April 8, 1994).

Cross References — Sale of bonds and investment of bond proceeds, see §§ 57-77-35.

Disposition of proceeds of sale, see § 57-77-37.

§ 57-77-35. Sale of bonds; temporary bonds; investment of bond proceeds; registration of bond sales; payment of costs and expenses.

(1) Whenever bonds are issued, they shall be offered for sale at not less than par value and accrued interest and shall be sold by the seller at public or private sale, from time to time, in such manner and at such price as may be determined by the seller to be most advantageous.

(2) Any portion of any bond issue so offered and not sold or subscribed for at public sale may be disposed of by private sale by the seller in such manner and at such prices not less than par and accrued interest, as the seller shall direct.

(3) When bonds are issued from time to time, the bonds of each issue shall constitute a separate series to be designated by the seller or may be combined

for sale as one (1) series with other general obligation bonds of the State of Mississippi.

(4) Until permanent bonds can be prepared, the seller may, in its discretion, issue in lieu of permanent bonds, temporary bonds in such form and with such privileges as to registration and exchange for permanent bonds as may be determined by the seller.

(5) Pending their application to the purposes authorized, bond proceeds held or deposited by the State Treasurer may be invested or reinvested as are other funds in the custody of the State Treasurer in the manner provided by law. All earnings received from the investment or deposit of such funds shall be paid into the State Treasury to the credit of the Venture Capital Fund.

(6) The State Treasurer shall prepare the necessary registry book to be kept in the office of the duly authorized loan and transfer agent of the state for the registration of any bonds, at the request of the owners thereof, according to the terms and conditions of issue directed by the seller.

(7) All costs and expenses in connection with the issue of and sale and registration of the bonds and notes in connection with this chapter, and all costs and expenses, validly incurred pursuant to this chapter, in connection with implementation of the program and development of application forms, procedures and requirements for use in connection with the program, may be paid from the proceeds of bonds and notes issued under this chapter.

(8) The seller may provide, in the resolution authorizing the issuance of such bonds, for the employment of one or more persons or firms to assist in the sale of the bonds; to enter into contracts with financial institutions located either within or without the State of Mississippi to act as registrar, paying agents, transfer agents, or otherwise; for rating of the bonds; and to purchase insurance.

SOURCES: Laws, 1994, ch. 650, § 19; Laws, 1998, ch. 563, § 11, eff from and after passage (approved April 17, 1998).

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected typographical errors in subsections (4) and (8). A comma was inserted after "permanent bonds" in subsection (4), so that "... may ... issue in lieu of permanent bonds temporary bonds in such form" was changed to "... may ... issue in lieu of permanent bonds, temporary bonds in such form." In subsection (8), the words "enter into contracts with financial institutions ... to chapter as registrar" were changed to "enter into contracts with financial institutions ... to act as registrar." The Joint Committee ratified the correction at its April 26, 2001 meeting.

Editor's Note — Laws of 1998, ch. 563, § 12 provides as follows:

"SECTION 12. Nothing in this act shall be construed as relieving or exempting anyone from liability both civil and criminal."

Cross References — Issuance, terms, form and execution of bonds, see § 57-77-33.

Disposition of proceeds of sale, see § 57-77-37.

§ 57-77-37. Disposition of proceeds of sale of bonds; allocation of nonfederal funds.

(1) The proceeds realized from the sale of bonds and notes under this chapter shall be paid to the State Treasurer and deposited into the Venture Capital Fund and specifically dedicated to the purposes enumerated in this chapter.

(2) All nonfederal funds which may become available for the purposes of this chapter shall be deposited in the Venture Capital Fund and shall be allocated for the purposes of this chapter.

SOURCES: Laws, 1994, ch. 650, § 20, eff from and after passage (approved April 8, 1994).

Cross References — Issuance, terms, form and execution of bonds, see § 57-77-33.
Sale of bonds and investment of bond proceeds, see §§ 57-77-35.
Disposition of proceeds of sale, see § 57-77-37.

§ 57-77-39. Representation of seller by Attorney General with respect to issuing, selling and validating bonds or notes; payment of expenses relating to issuance of bonds or notes.

Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent the seller in issuing, selling and validating bonds or notes herein provided for, and the seller is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds or notes authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds or notes authorized under this chapter.

SOURCES: Laws, 1994, ch. 650, § 21; Laws, 2012, ch. 546, § 26, eff from and after July 1, 2012.

CHAPTER 79

Mississippi Small Town Development Act

Sec.

57-79-1. Short title.

57-79-3. Legislative findings and declaration of intent.

57-79-5. Definitions.

57-79-7. Authorization of Mississippi Small Town Development Program.

57-79-9. Composition of Mississippi Small Town Development Program.

57-79-11. Authority of Mississippi Department of Economic and Community Development.

§ 57-79-1. Short title.

This chapter shall be known and may be cited as the "Mississippi Small Town Development Act."

SOURCES: Laws, 1995, ch. 456, § 1, eff from and after passage (approved March 22, 1995).

§ 57-79-3. Legislative findings and declaration of intent.

The Legislature finds that:

(a) Many small towns and cities will benefit from professional and financial assistance;

(b) The improvement of small towns and cities benefit the economic and general welfare of the people of the State of Mississippi;

(c) Establishment of the Mississippi Small Town Development Program is an effective means to restore and strengthen Mississippi's small towns; and

(d) It is the intent of the Legislature to establish the Mississippi Small Town Development Program.

SOURCES: Laws, 1995, ch. 456, § 2, eff from and after passage (approved March 22, 1995).

§ 57-79-5. Definitions.

For the purposes of this chapter, the following terms shall have the meanings ascribed herein unless the context shall otherwise require:

(a) "Small town" shall mean any city, town or village with a population of five thousand (5,000) or fewer persons according to the most recent federal decennial census.

(b) "Mississippi Small Town Development Fund" shall mean that fund administered by the Mississippi Department of Economic and Community Development to assist small towns for purposes authorized under this chapter.

(c) "Grant application development expenses" shall mean any preliminary study, survey, investigation, or report including engineering analysis or cost estimates, or other professional services required to submit a grant or loan application to any state or federal agency or department.

(d) "Grant application matching requirement" means any state or federal grant or loan requirement for the contribution of cash or other in-kind services as a part of any such grant or loan application.

(e) "Mississippi Small Town Technical Assistance Network" shall be that program administered by the Mississippi Department of Economic and Community Development organized to provide both direct, individual technical assistance to small towns, and to maximize the efforts of other state and federal departments and agencies, as well as private not-for-profit organizations.

SOURCES: Laws, 1995, ch. 456, § 3, eff from and after passage (approved March 22, 1995).

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-79-7. Authorization of Mississippi Small Town Development Program.

There is hereby authorized the creation of the Mississippi Small Town Development Program.

SOURCES: Laws, 1995, ch. 456, § 4, eff from and after passage (approved March 22, 1995).

§ 57-79-9. Composition of Mississippi Small Town Development Program.

The Mississippi Small Town Development Program shall consist of the following:

(a) The Mississippi Small Town Development Fund, administered by the Mississippi Department of Economic and Community Development. Such fund shall be used to further the purposes of this chapter, specifically to provide grant application development expenses, grant application matching requirements and for related purposes.

(b) Mississippi Small Town Technical Assistance Network, administered by the Mississippi Department of Economic and Community Development, which shall consist of the following elements:

(i) Provide direct technical assistance to individual small towns to improve their effectiveness and efficiency.

(ii) Shall be organized geographically using Mississippi Planning and Development District lines.

(iii) Shall not duplicate the efforts of the myriad public agencies, departments, and private not-for-profit corporations, but will seek to maximize the effectiveness of existing efforts to improve small town government in Mississippi.

(iv) Shall be authorized to enter into mutually beneficial agreements with these and other local, state and federal agencies and departments, as well as private not-for-profit organizations, to receive donations, grants, real or personal property, and to further the purposes of this chapter.

(v) May use interns from Mississippi's public universities through the existing Mississippi Public Service Internship Program.

(c) Other programs of the Mississippi Department of Economic and Community Development, as well as other state agencies, that currently target the small towns of the state shall work with the Mississippi Small Town Technical Assistance Network to improve their publicity and effectiveness.

SOURCES: Laws, 1995, ch. 456, § 5, eff from and after passage (approved March 22, 1995).

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

§ 57-79-11. Authority of Mississippi Department of Economic and Community Development.

The Mississippi Department of Economic and Community Development is authorized to contract with other public agencies, as well as private not-for-profit corporations, to further the purposes of this chapter.

SOURCES: Laws, 1995, ch. 456, § 6, eff from and after passage (approved March 22, 1995).

Editor's Note — Section 57-1-54 provides for the transfer of the powers and duties of the Department of Economic Development to the Mississippi Development Authority and that anywhere the terms "Mississippi Department of Economic and Community Development," "Department of Economic and Community Development," "Mississippi Department of Economic Development" or "Department of Economic Development" or similar terms, appear in any law, it shall mean the Mississippi Development Authority.

CHAPTER 80

Growth and Prosperity Act

Sec.
57-80-1. Short title.
57-80-3. Legislative findings.
57-80-5. Definitions.
57-80-7. Counties eligible for certificate of public convenience and necessity; application requirements; municipal consent to participation in Growth and Prosperity Program [Repealed effective July 1, 2019].
57-80-9. Exemption from local taxation; conditions.
57-80-11. Promulgation of rules and regulations.

§ 57-80-1. Short title.

This chapter shall be known and may be cited as the "Growth and Prosperity Act."

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 34, eff from and after Jan. 1, 2001.

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:
"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

§ 57-80-3. Legislative findings.

The Legislature finds and determines that there exists in this state a continuing need for programs to assist certain counties in encouraging economic development, the consequent job creation and retention, additional private investment and increased local and state revenue which together insures the further development of a balanced economy. To achieve these purposes, it is necessary to assist and encourage the creation of growth and prosperity by providing temporary relief from certain taxes within certain counties and within specific supervisors districts in certain other counties to certain business enterprises.

Further, the Legislature finds and determines that the authority granted under this chapter and the purposes to be accomplished hereby are proper governmental and public purposes and that the resulting economic benefits to the state are of paramount importance, mandating that the provisions of this chapter be liberally construed and applied in order to advance the public purposes.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 35, eff from and after Jan. 1, 2001.

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:
"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

§ 57-80-5. Definitions.

As used in this chapter, the following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) "Approved business enterprise" means any business enterprise seeking to locate or expand in a growth and prosperity county, which business enterprise is approved by the MDA.

(b) "Business enterprise" means any new or expanded (i) industry for the manufacturing, processing, assembling, storing, warehousing, servicing, distributing or selling of any products or goods, including products of agriculture; (ii) enterprises for research and development, including, but not limited to, scientific laboratories; or (iii) such other businesses or industry as will be in furtherance of the public purposes of this chapter as determined by the MDA and which creates a minimum of ten (10) jobs. "Business enterprise" does not include retail or gaming businesses or electrical generation facilities.

(c) "Eligible supervisors district" means:

(i) A supervisors district:

1. As such district exists on January 1, 2001, in which thirty percent (30%) or more of such district's population as of June 30, 2000, is at or below the federal poverty level according to the official data compiled by the United States Census Bureau as of June 30, 2000, or the official 1990 census poverty rate data (the official 1990 census poverty rate data shall not be used to make any such determination after December 31, 2002); or

2. In which thirty percent (30%) or more of such district's population is at or below the federal poverty level according to the latest official data compiled by the United States Census Bureau;

(ii) Which is contiguous to a county that meets the criteria of Section 57-80-7(1)(b); and

(iii) Which is located in a county which has been issued a certificate of public convenience and necessity under this chapter.

(d) "Growth and prosperity counties" means those counties which meet the requirements of this chapter and which have by resolution or order given its consent to participate in the Growth and Prosperity Program.

(e) "Local tax" means any county or municipal ad valorem tax imposed on the approved business enterprise pursuant to law, except the school portion of the tax and any portion of the tax imposed to pay the cost of providing fire and police protection.

(f) "Local taxing authority" means any county or municipality which by resolution or order has given its consent to participate in the Growth and Prosperity Program acting through its respective board of supervisors or the municipal governing board, council, commission or other legal authority.

(g) "MDA" means the Mississippi Development Authority.

(h) "State tax" means:

(i) Any sales and use tax imposed on the business enterprise pursuant to law related to the purchase of component building materials and equipment for initial construction of facilities or expansion of facilities in a growth and prosperity county or supervisors districts, as the case may be;

(ii) All income tax imposed pursuant to law on income earned by the business enterprise in a growth and prosperity county, or supervisors district, as the case may be;

(iii) Franchise tax imposed pursuant to law on the value of capital used, invested or employed by the business enterprise in a growth and prosperity county, or supervisors district, as the case may be; and

(iv) Any sales and use tax imposed on the lease of machinery and equipment acquired in the initial construction to establish the facility or for an expansion, including, but not limited to, leases in existence prior to January 1, 2001, as certified by the MDA, in a growth and prosperity county, or supervisors district, as the case may be.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 36; Laws, 2001, ch. 582, § 1; Laws, 2004, ch. 469, § 1; Laws, 2010, ch. 392, § 1, eff from and after passage (approved Mar. 17, 2010.)

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation corrected a statutory reference error in (c)(ii) by substituting "57-80-7(1)(b)" for "37(1)(b)." The Joint Committee ratified the correction at its August 5, 2008, meeting.

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

§ 57-80-7. Counties eligible for certificate of public convenience and necessity; application requirements; municipal consent to participation in Growth and Prosperity Program [Repealed effective July 1, 2019].

(1) From and after December 31, 2000, and until December 31, 2012, the following counties may apply to the MDA for the issuance of a certificate of public convenience and necessity:

(a) Any county of this state which has an annualized unemployment rate that is at least two hundred percent (200%) of the state's unemployment rate as of December 31 of any year from 2000 through 2012, as determined by the Mississippi Department of Employment Security's most recently published data;

(b) Any county of this state in which thirty percent (30%) or more of the population of the county is at or below the federal poverty level according to the official data compiled by the United States Census Bureau as of August 30, 2000, for counties that apply before December 31, 2002, or the most recent official data compiled by the United States Census Bureau for counties that apply from and after December 31, 2002; or

(c) Any county of this state having an eligible supervisors district.

(2) The application, at a minimum, must contain (a) the Mississippi Department of Employment Security's most recently published figures that reflect the annualized unemployment rate of the applying county as of December 31 or the most recent official data by the United States Census Bureau required by subsection (1) of this section, as the case may be, and (b)

an order or resolution of the county consenting to the designation of the county as a growth and prosperity county.

(3) Any municipality of a designated growth and prosperity county or within an eligible supervisors district and not more than eight (8) miles from the boundary of the county that meets the criteria of subsection (1) (b) of this section may by order or resolution of the municipality consent to participation in the Growth and Prosperity Program.

(4) No incentive or tax exemption shall be given under this chapter without the consent of the affected county or municipality.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 37; Laws, 2001, ch. 582, § 2; Laws, 2004, ch. 572, § 55; Laws, 2006, ch. 499, § 2; reenacted without change, Laws, 2008, 1st Ex Sess, ch. 30, § 55; Laws, 2009, ch. 399, § 1; reenacted without change, Laws, 2010, ch. 559, § 55; reenacted without change, Laws, 2011, ch. 471, § 56; reenacted without change, Laws, 2012, ch. 515, § 55, eff from and after July 1, 2012.

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

Laws of 2004, ch. 572, § 60, as amended by Laws of 2008, 1st Ex Sess, ch. 30, § 58, as amended by Laws of 2010, ch. 559, § 58, as amended by Laws of 2011, ch. 471, § 59, and as amended by Laws of 2012, ch. 515, § 58, provides:

"SECTION 60. This act shall stand repealed on July 1, 2019."

Cross References — Mississippi Department of Employment Security generally, see §§ 71-5-101 et seq.

§ 57-80-9. Exemption from local taxation; conditions.

(1) Upon the issuance by the MDA of its certificate of public convenience and necessity, designating certain counties as growth and prosperity counties, any approved business enterprise in any such a growth and prosperity county or any approved business enterprise located within an eligible supervisors district within eight (8) miles of the boundary of the county that meets the criteria of Section 57-80-7(1)(b) shall be exempt from all local taxes levied by the county and all state taxes for a period of ten (10) years or until December 31, 2022, whichever occurs first, and upon consent of any municipality within such county or within such supervisors district and not more than eight (8) miles from the boundary of the county that meets the criteria of Section 57-80-7(1)(b), shall be exempt from all local taxes levied by such municipality for a period of ten (10) years or until December 31, 2022, whichever occurs first; however, if the business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the business enterprise is unable to utilize the exemption from state taxes, the MDA may extend the duration of the exemption from state taxes for not more than two (2) years or until December 31, 2022, whichever occurs first. Any business enterprise that has property or equipment purchased utilizing the state tax exemption that is damaged or destroyed as a result of the disaster may purchase replacement equipment and component building materials exempt from sales and use tax.

(2) The following conditions, along with any other conditions the MDA shall promulgate from time to time by rule or regulation, shall apply to such exemptions: (a) any exemption provided under this chapter is nontransferable and cannot be applied, used or assigned to any other person or business or tax account; (b) no approved business enterprise may claim or use the exemption granted under this chapter unless that enterprise is in full compliance with all state and local tax laws, and related ordinances and resolutions; and (c) the approved business enterprise must enter into an agreement with the MDA which sets out, at a minimum the performance requirements of the approved business enterprise during the term of the exemption and provisions for the recapture of all or a portion of the taxes exempted if the performance requirements of the approved business enterprise are not met.

(3) Upon entering into such an agreement, the MDA shall forward such agreement to the State Tax Commission and the affected local taxing authorities so that the exemption can be implemented. The State Tax Commission shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation of both local and state exemptions granted under this chapter.

(4) Any business enterprise that relocates its present operation and jobs to a growth and prosperity county or an eligible supervisors district and not more than eight (8) miles from the boundary of the county that meets the criteria of Section 57-80-7(1)(b) from another county in the state shall not receive any of the exemptions granted in this chapter.

(5) If the annualized unemployment rate in a growth and prosperity county falls below one hundred fifty percent (150%) of the state's annualized unemployment rate for three (3) consecutive calendar years and less than thirty percent (30%) of the population of the county is at or below the federal poverty level according to the most recent official data compiled by the United States Census Bureau as of December 31 of the third of such consecutive calendar years, the tax exemptions authorized under this chapter may not be granted to additional business enterprises.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 38; Laws, 2006, ch. 499, § 1; Laws, 2007, ch. 457, § 1; Laws, 2009, ch. 399, § 2, eff from and after passage (approved Mar. 18, 2009.)

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:

"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."

Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Cross References — Mississippi Administrative Procedures Law generally, see §§ 25-43-1.101 et seq.

§ 57-80-11. Promulgation of rules and regulations.

The MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation and administration of this chapter.

SOURCES: Laws, 2000, 2nd Ex Sess, ch. 1, § 39, eff from and after Jan. 1, 2001.

Editor's Note — Laws of 2000, 2nd Ex Sess, ch. 1, § 1 provides:
"SECTION 1. This act may be cited as the 'Advantage Mississippi Initiative'."
Cross References — Mississippi Administrative Procedures Law generally, see §§ 25-43-1.101 et seq.

CHAPTER 81

Mississippi Science and Technology Commission [Repealed]

§§ 57-81-1 through 57-81-3. Repealed.

Repealed by Laws, 1995, ch. 594, § 3, eff from and after June 30, 1998.
§ 57-81-1 to § 57-81-3. [Laws, 1995, ch. 594, §§ 1, 2]

Editor's Note — Former §§ 57-81-1, 57-81-3 related to the creation, operation and programs of the Mississippi Science and Technology Commission.

CHAPTER 83

Mississippi Technology, Inc. Liaison Committee

SEC.
57-83-1. Establishment; duties.

§ 57-83-1. Establishment; duties.

The President of the Senate and the Speaker of the House of Representatives shall each appoint three (3) members of their respective legislative houses to serve as members of the Mississippi Technology, Inc., Liaison Committee. The members of such committee shall be entitled (a) to attend meetings of the Mississippi Technology, Inc., Board of Directors, (b) to receive all budgets, reports, audits and all financial and other information distributed to the directors of Mississippi Technology, Inc., (c) to meet and confer with the directors and staff of Mississippi Technology, Inc., and (d) to perform such other activities as may be necessary or proper in discharging their responsibilities of liaison with their respective houses of the Legislature. The members of the liaison committee shall have no jurisdiction or vote on any matter within the jurisdiction of Mississippi Technology, Inc. The members of the committee shall prepare and submit an annual report to the Legislature no later than December 15 of each calendar year setting forth the activities and financial condition of Mississippi Technology, Inc., and their perspective and comments on the activities of Mississippi Technology, Inc. The report shall also contain recommendations regarding policy or legislative changes for consideration by the Legislature. The members of the Mississippi Technology, Inc., Liaison Committee shall be bound by the same limitations as to confidentiality of information regarding products, processes or the internal affairs of private businesses, as are imposed upon the officers and directors of Mississippi Technology, Inc. When the Legislature is not in session, members shall be paid per diem and all actual and necessary expenses, including mileage expenses, from their respective contingent expense funds at the rate authorized for committee meetings when the Legislature is not in session; however, no per diem and expenses will be paid when the Legislature is in session. The terms of the members of the liaison committee shall expire at the end of their terms of office.

SOURCES: Laws, 1999, ch. 339, § 1, eff from and after July 1, 1999.

CHAPTER 85

Mississippi Rural Impact Act

Sec.
57-85-1. Short title.
57-85-3. Legislative findings.
57-85-5. Definitions; Mississippi Rural Impact Fund; grants, loans and loan guaranties; application; powers.

§ 57-85-1. Short title.

This chapter shall be known and may be cited as the "Mississippi Rural Impact Act."

SOURCES: Laws, 2003, ch. 506, § 1, eff from and after passage (approved Apr. 15, 2003.)

§ 57-85-3. Legislative findings.

The Legislature finds and determines that:

(a) There exists in the State of Mississippi a continuing need for gainful employment for the citizens of the rural areas of the state.

(b) To help provide employment opportunities and to impact the quality of life in these rural areas, a division within the Mississippi Development Authority should be created with power to promote business and economic development through job producing programs and by providing financial assistance to communities and businesses.

(c) In accomplishing this purpose, such division will be acting in all respects for the benefit of the people of the state in the performance of essential public functions and serving a valid purpose in improving or otherwise promoting their health, welfare and prosperity, and the enactment of the provisions hereinafter set forth is for a valid public purpose.

(d) The borrowing of money and the issuance of bonds for the purposes hereinafter set forth serves valid public purposes that will contribute to the employment base of the state.

SOURCES: Laws, 2003, ch. 506, § 2, eff from and after passage (approved Apr. 15, 2003.)

§ 57-85-5. Definitions; Mississippi Rural Impact Fund; grants, loans and loan guaranties; application; powers.

(1) For the purposes of this section, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "MDA" means the Mississippi Development Authority.

(b) "Project" means construction, rehabilitation or repair of buildings; sewer systems and transportation directly affecting the site of the proposed rural business; sewer facilities, acquisition of real property, development of real property, improvements to real property, and any other project approved by the Mississippi Development Authority.

(c) "Rural business" means a new or existing business located or to be located in a rural community or a business or industry located or to be located within five (5) miles of a rural community. "Rural business" does not include gaming businesses or utility businesses.

(d) "Rural community" means a county in the State of Mississippi that meets the population criteria for the term "limited population county" as provided in Section 57-1-18. "Rural community" also means a municipality in the State of Mississippi that meets the population criteria for the term "small municipality" as provided in Section 57-1-18.

(2)(a) There is created in the State Treasury a special fund to be designated as the "Mississippi Rural Impact Fund," which shall consist of funds appropriated or otherwise made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used to make grants and loans to rural communities and loan guaranties on behalf of rural businesses to assist in completing projects under this section.

(b) Monies in the fund which are derived from proceeds of bonds issued after April 15, 2003, may be used to reimburse reasonable actual and necessary costs incurred by the MDA in providing assistance related to a project for which funding is provided under this section from the use of proceeds of such bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each project by the MDA. Reimbursement of reasonable actual and necessary costs for a project shall not exceed three percent (3%) of the proceeds of bonds issued for such project. Monies authorized for a particular project may not be used to reimburse administrative costs for unrelated projects. Reimbursements under this paragraph (b) shall satisfy any applicable federal tax law requirements.

(c) The MDA may use monies in the fund to pay for the services of architects, engineers, attorneys and such other advisors, consultants and agents that the MDA determines are necessary to review loan and grant applications and to implement and administer the program established under this section.

(d) The State Auditor may conduct performance and compliance audits under this chapter according to Section 7-7-211(o) and may bill the oversight agency.

(3) The MDA shall establish a program to make grants and loans to rural communities and loan guaranties on behalf of rural businesses from the Mississippi Rural Impact Fund. A rural community may apply to the MDA for a grant or loan under this section in the manner provided for in this section. A rural business may apply to the MDA for a loan guaranty under this section in the manner provided in this section.

(4) A rural community desiring assistance under this section must submit an application to the MDA. The application must include a description of the project for which assistance is requested, the cost of the project for which assistance is requested and any other information required by the MDA. A rural business desiring assistance under this section must submit an application to the MDA. The application must include a description of the purpose for which assistance is requested and any other information required by the MDA. The MDA may waive any requirements of the program established under this section in order to expedite funding for unique projects.

(5) The MDA shall have all powers necessary to implement and administer the program established under this section, and the MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

SOURCES: Laws, 2003, ch. 506, § 3; Laws, 2014, ch. 427, § 5, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment added (2)(d) and inserted "the" following "and agents that" in (2)(c).

Cross References — Mississippi Administrative Procedures Law generally, see §§ 25-43-1.101 et seq.

ATTORNEY GENERAL OPINIONS

A city had the authority to lease property acquired by virtue of a grant under the Mississippi Rural Impact Act to a private business. The city must comply with any rules and regulations promulgated by the Mississippi Development Authority and with the terms of the grant. Carnathan, Nov. 21, 2003, A.G. Op. 03-0611.

CHAPTER 87

Mississippi Broadband Technology Development Act

Sec.

57-87-1. Short title.
57-87-3. Legislative findings.
57-87-5. Definitions; credit against income tax and corporation franchise tax liability of telecommunications enterprises for investments made after June 30, 2003 and before July 1, 2020.
57-87-7. Ad valorem taxation for equipment placed in service after June 30, 2003 and before July 1, 2020 for use in deployment of broadband technologies.

§ 57-87-1. Short title.

This chapter may be cited as the "Mississippi Broadband Technology Development Act".

SOURCES: Laws, 2003, ch. 520, § 1, eff from and after July 1, 2003.

§ 57-87-3. Legislative findings.

(1) The Legislature finds that the long-standing telecommunications policy of this state has been to ensure that all citizens have access to telephone service. The increasing reliance upon access to computer information services for jobs, housing and other necessities requires that this concept be broadened to include high-speed access to the Internet as well.

(2) The Legislature further finds that the ability of the citizens in all parts of this state to access the Internet, also known as the information superhighway, is an important component in the ability of the state to remain competitive in the fields of business and education, as well as the ability of government to provide services to these people both now and in the future. The ability of the citizens of Mississippi to access the full potential of the Internet is predicated on having the most advanced telecommunications infrastructure - the backbone to the information superhighway.

(3) The Legislature further finds and declares that it is the policy of the state to provide incentives for "telecommunications enterprises" (as defined in Section 57-73-21(14)) to invest in the infrastructure needed to provide broadband technology throughout the state to keep this state competitive and to promote economic development within the state.

(4) The Legislature further finds that despite the significant growth of computer ownership and usage, the growth has occurred to a greater extent within developed areas within this state, thereby leading to what has been termed a "digital divide" between Tier One areas within the state and areas within this state that are Tier Two and Tier Three areas (as such areas are designated in accordance with Section 57-73-21(1)).

(5) The Legislature further finds that it is in the public interest for people living in Tier Two areas and people living in Tier Three areas of the state to have high-speed access to the Internet and to adequate technology, infrastructure and advanced telecommunications service.

(6) The Legislature further finds and declares that additional incentives are warranted to encourage telecommunications enterprises to invest in the infrastructure needed to provide broadband technology in Tier Two and Tier Three areas of the state.

SOURCES: Laws, 2003, ch. 520, § 2; Laws, 2014, ch. 445, § 2, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment substituted "(14)" for "(13)" following "Section 57-73-21" in (3).

§ 57-87-5. Definitions; credit against income tax and corporation franchise tax liability of telecommunications enterprises for investments made after June 30, 2003 and before July 1, 2020.

(1) For purposes of this section:

(a) "Telecommunications enterprises" shall have the meaning ascribed to such term in Section 57-73-21(14);

(b) "Tier One areas" mean counties designated as Tier One areas pursuant to Section 57-73-21(1);

(c) "Tier Two areas" mean counties designated as Tier Two areas pursuant to Section 57-73-21(1);

(d) "Tier Three areas" mean counties designated as Tier Three areas pursuant to Section 57-73-21(1); and

(e) "Equipment used in the deployment of broadband technologies" means any equipment capable of being used for or in connection with the transmission of information at a rate, prior to taking into account the effects of any signal degradation, that is not less than three hundred eighty-four (384) kilobits per second in at least one (1) direction, including, but not limited to, asynchronous transfer mode switches, digital subscriber line access multiplexers, routers, servers, multiplexers, fiber optics and related equipment.

(2) With respect to the investment in each year by a telecommunications enterprise after June 30, 2003, and before July 1, 2020, there shall be allowed annually as a credit against the aggregate tax imposed by Chapters 7 and 13 of Title 27, Mississippi Code of 1972, an amount equal to:

(a) Five percent (5%) of the cost of equipment used in the deployment of broadband technologies in Tier One areas;

(b) Ten percent (10%) of the cost of equipment used in the deployment of broadband technologies in Tier Two areas; and

(c) Fifteen percent (15%) of the cost of equipment used in the deployment of broadband technologies in Tier Three areas.

(3) Such annual credits shall be allowed commencing with the taxable year in which such property is placed in service and continue for nine (9) consecutive years thereafter. The aggregate credit established by this section taken in any one (1) tax year shall be limited to an amount not greater than

fifty percent (50%) of the taxpayer's tax liabilities under Chapters 7 and 13 of Title 27, Mississippi Code of 1972; however, any tax credit claimed under this section, but not used in any taxable year, may be carried forward for ten (10) consecutive years from the close of the tax year in which the credits were earned.

(4) The maximum aggregate amount of credits that may be claimed under this section shall not exceed the original investment made by a telecommunications enterprise in the qualifying equipment used in the deployment of broadband technologies.

(5) For purposes of this section, the tier in which broadband technology is deployed shall be determined in the year in which such technology is deployed in a county and such tier shall not change if the county is later designated in another tier.

SOURCES: Laws, 2003, ch. 520, § 3; Laws, 2006, ch. 487, § 1; Laws, 2014, ch. 445, § 3, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment substituted "(14)" for "(13)" following "Section 57-73-21" in (1)(a).

§ 57-87-7. Ad valorem taxation for equipment placed in service after June 30, 2003 and before July 1, 2020 for use in deployment of broadband technologies.

Equipment used in the deployment of broadband technologies by a telecommunications enterprise (as defined in Section 57-73-21(14)), that is placed in service after June 30, 2003, and before July 1, 2020, shall be exempt from ad valorem taxation for a period of ten (10) years after the date such equipment is placed in service. For purposes of this section, "equipment used in the deployment of broadband technologies" means any equipment capable of being used for or in connection with the transmission of information at a rate, prior to taking into account the effects of any signal degradation, that is not less than three hundred eighty-four (384) kilobits per second in at least one direction, including, but not limited to, asynchronous transfer mode switches, digital subscriber line access multiplexers, routers, servers, multiplexers, fiber optics and related equipment.

SOURCES: Laws, 2003, ch. 520, § 4; Laws, 2013, ch. 462, § 2; Laws, 2014, ch. 445, § 4, eff from and after July 1, 2014.

Amendment Notes — The 2013 amendment substituted "July 1, 2020" for "July 1, 2013" following "June 30, 2003, and before" in the first sentence.

The 2014 amendment substituted "(14)" for "(13)" following "Section 57-73-21" in the first sentence.

CHAPTER 89

Mississippi Motion Picture Incentive Act

Sec.
57-89-1. Short title.
57-89-3. Definitions.
57-89-5. Repealed
57-89-7. Availability of certain rebates to motion picture production companies in connection with production of motion pictures; request for rebate.

§ 57-89-1. Short title.

The provisions of this chapter shall be known and may be cited as the "Mississippi Motion Picture Incentive Act."

SOURCES: Laws, 2004, ch. 528, § 1, eff from and after July 1, 2004.

§ 57-89-3. Definitions.

As used in this chapter, the following terms shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Base investment" means the actual investment made and expended in Mississippi by a motion picture production company in connection with the production of a state-certified production in the state. The term "base investment" includes amounts expended in Mississippi by a motion picture production company as per diem and housing allowances in connection with the production of a state-certified production in the state. The term "base investment" shall not include payroll.

(b) "Employee" means an individual directly involved in the physical production and/or post-production of a motion picture produced in the state and who is employed by a:

(i) Motion picture production company that is directly involved in the physical production and/or post-production of a motion picture in the state;

(ii) Personal service corporation retained by a motion picture production company to provide persons used directly in the physical production and/or post-production of a motion picture in the state; or

(iii) Payroll service or loan-out company that is retained by a motion picture production company to provide employees who work directly in the physical production and/or post-production of a motion picture in the state.

(c) "Fringes" means costs paid by a motion picture production company on or after September 1, 2013, for employee benefits that are not subject to state income tax. Fringes may include, but are not limited to, payments by an employer for unemployment insurance, Federal Insurance Contribution Act (FICA), workers' compensation insurance, pension and welfare benefits and health insurance premiums.

(d) "Motion picture" means a nationally distributed feature-length film, video, DVD, television program or series, commercial, or computer or video game made in Mississippi, in whole or in part, for theatrical or DVD release or television viewing or as a television pilot or viewing through streaming video or Internet delivery, or for playing on a video game console, personal computer or handheld device. The term "motion picture" shall not include the production of television coverage of news and athletic events, or a film, video, DVD, television program, series, or commercial that contains any material or performance defined in Section 97-29-103.

(e) "Motion picture production company" means a company engaged in the business of producing nationally distributed motion pictures, videos, DVDs, television programs or series, commercials, or computer or video games intended for a theatrical release, for television viewing or for playing on a video game console, personal computer or handheld device. The term "motion picture production company" includes a company engaged in the business of making such productions through the use of animation, interactive media, preproduction and post-production 3D applications, video game cinematics, virtual production, visual effects, and motion capture within the fields of feature film, television, commercials and games. The term "motion picture production company" shall not mean or include any company owned, affiliated, or controlled, in whole or in part, by any company or person which is in default on a loan made by the state or a loan guaranteed by the state, or any company or person who has ever declared bankruptcy under which an obligation of the company or person to pay or repay public funds or monies was discharged as a part of such bankruptcy.

(f) "Payroll" means salary, wages or other compensation including related benefits paid to employees upon which Mississippi income tax is due and has been withheld.

(g) "Resident" or "resident of Mississippi" means a natural person, and for the purpose of determining eligibility for the rebate provided by Section 57-89-7, any person domiciled in the State of Mississippi and any other person who maintains a permanent place of abode within the state and spends in the aggregate more than six (6) months of each year within the state.

(h) "State" means the State of Mississippi.

(i) "State-certified production" means a motion picture approved by the Mississippi Development Authority produced by a motion picture production company in the state. An application for approval as a state-certified production must be submitted to the Mississippi Development Authority before production of the project begins.

SOURCES: Laws, 2004, ch. 528, § 2; Laws, 2007, ch. 324, § 1; Laws, 2008, ch. 524, § 1; Laws, 2011, ch. 453, § 1; Laws, 2013, ch. 490, § 1; Laws, 2014, ch. 524, § 1, eff from and after Jan. 1, 2014.

Amendment Notes — The 2013 amendment in (c), substituted "commercial, or computer or video game" for "or commercial" and added "or for playing on a video game console, personal computer or handheld device" in the first sentence; in (d), inserted "or computer or video games" and "or for playing on a video game console, personal computer or handheld device" and made related changes in the first sentence.

The 2014 amendment added (c) and redesignated the remaining subsections accordingly.

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

§ 57-89-5. Repealed.

Repealed by Laws of 2007, ch. 324, § 3 effective from and after passage March 13, 2007.

[Laws, 2004, ch. 528, § 3, eff from and after July 1, 2004.]

Editor's Note — Former § 57-89-5 provided for an income tax credit for employment of Mississippi residents in connection with the production of a motion picture.

§ 57-89-7. Availability of certain rebates to motion picture production companies in connection with production of motion pictures; request for rebate.

(1)(a) A motion picture production company that expends at least Fifty Thousand Dollars ($50,000.00) in base investment, payroll and/or fringes, in the state shall be entitled to a rebate of a portion of the base investment made by the motion picture production company. Subject to the provisions of this section, the amount of the rebate shall be equal to twenty-five percent (25%) of the base investment made by the motion picture production company.

(b) In addition to the rebates authorized under paragraphs (a), (c) and (d) of this subsection, a motion picture production company may receive a rebate equal to twenty-five percent (25%) of payroll and fringes paid for any employee who is not a resident and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968. However, if the payroll and fringes paid for an employee exceeds Five Million Dollars ($5,000,000.00), then the rebate is authorized only for the first Five Million Dollars ($5,000,000.00) of such payroll and fringes.

(c) In addition to the rebates authorized under paragraphs (a), (b) and (d) of this subsection, a motion picture production company may receive a rebate equal to thirty percent (30%) of payroll and fringes paid for any employee who is a resident and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968. However, if the payroll and fringes paid for an employee exceeds Five Million Dollars ($5,000,000.00), then the rebate is authorized only for the first Five Million Dollars ($5,000,000.00) of such payroll and fringes.

(d) In addition to the rebates authorized in paragraphs (a), (b) and (c) of this subsection, a motion picture production company may receive an additional rebate equal to five percent (5%) of the payroll and fringes paid for any employee who is an honorably discharged veteran of the United States

Armed Forces and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968.

(e) If a motion picture has physical production activities and/or post-production activities both inside and outside the state, then the motion picture production company shall be required to provide an itemized accounting for each employee regarding such activities inside and outside the state for the purposes of proration of eligible payroll based on the percentage of activities performed in the state.

(f) The total amount of rebates authorized for a motion picture project shall not exceed Ten Million Dollars ($10,000,000.00) in the aggregate.

(g) The total amount of rebates authorized in any fiscal year shall not exceed Twenty Million Dollars ($20,000,000.00) in the aggregate.

(2) A motion picture production company desiring a rebate under this section must submit a rebate request to the Department of Revenue upon completion of the project. The request must include a detailed accounting of the base investment made by the motion picture production company and any other information required by the Department of Revenue. Rebates made by the Department of Revenue under this section shall be made from current income tax collections. The Department of Revenue shall not approve any application for a rebate under subsection (1) (b) of this section after July 1, 2016.

(3) The Department of Revenue shall have all powers necessary to implement and administer the provisions of this section, and the Department of Revenue shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

(4) The State Auditor may conduct performance and compliance audits under this chapter according to Section 7-7-211(o) and may bill the oversight agency.

SOURCES: Laws, 2004, ch. 528, § 4; Laws, 2007, ch. 324, § 2; Laws, 2008, ch. 524, § 2; Laws, 2011, ch. 453, § 2; Laws, 2013, ch. 490, § 2; Laws, 2014, ch. 427, § 6; Laws, 2014, ch. 524, § 2, eff from and after Jan. 1, 2014.

Joint Legislative Committee Note — Section 6 of ch. 427, Laws of 2014, effective from and after July 1, 2014 (approved March 24, 2014), amended this section. Section 2 of ch. 524, Laws of 2014, effective from and after January 1, 2014 (approved April 23, 2014), also amended this section. As set out above, this section reflects the language of both amendments pursuant to Section 1-1-109 which gives the Joint Legislative Committee on Compilation, Revision, and Publication of Legislation authority to integrate amendments so that all versions of the same code section enacted within the same legislative session may become effective. The Joint Committee on Compilation, Revision, and Publication of Legislation ratified the integration of these amendments as consistent with the legislative intent at the July 24, 2014, meeting of the Committee.

Amendment Notes — The 2013 amendment inserted "and (d)" in the first sentence of (b) and (c); substituted "Five Million Dollars ($5,000,000.00)" for "One Million Dollars ($1,000,000.00)" twice in (1)(b) and (c); added (1)(d) and redesignated remaining subdivisions accordingly; substituted "Ten Million Dollars ($10,000,000.00)" for "Eight Million Dollars ($8,000,000.00)" in (1)(f); substituted "July 1, 2016" for "July 1, 2014" at the end of (2); and made minor stylistic changes.

The first 2014 amendment (ch. 427), added (4).

The second 2014 amendment (ch. 524) substituted "payroll and/or fringes" for "or payroll, or both" in (1)(a); and inserted "and fringes" following "payroll" throughout (1)(b), (1)(c), and (1)(d).

Cross References — Mississippi Income Tax Withholding Law generally, see §§ 27-7-301.

CHAPTER 91

Economic Redevelopment Act

Sec.
57-91-1. Short title.
57-91-3. Legislative findings; provisions of chapter to be liberally construed.
57-91-5. Definitions.
57-91-7. Designation as redevelopment counties and municipalities.
57-91-9. Redevelopment Project Incentive Fund created; incentive payments.
57-91-11. Rules and regulations.

§ 57-91-1. Short title.

This chapter shall be known and may be cited as the "Economic Redevelopment Act."

SOURCES: Laws, 2005, ch. 468, § 1, eff from and after Jan. 1, 2005.

§ 57-91-3. Legislative findings; provisions of chapter to be liberally construed.

The Legislature finds and determines that there exists in this state a continuing need for programs to assist certain counties and municipalities in encouraging economic development, the consequent job creation and retention, additional private investment and increased local and state revenue which together insures the further development of a balanced economy. The Legislature further finds that this need is particularly great in counties and municipalities where there are located certain environmentally contaminated sites that are not currently conducive to such economic development. To achieve the combined purposes of encouraging economic development on and around environmentally contaminated sites, it is necessary to assist and encourage such economic development by providing temporary tax incentives within certain counties and municipalities to certain business enterprises.

Further, the Legislature finds and determines that the authority granted under this chapter and the purposes to be accomplished hereby are proper governmental and public purposes and that the resulting economic benefits to the state are of paramount importance, mandating that the provisions of this chapter be liberally construed and applied in order to advance the public purposes.

SOURCES: Laws, 2005, ch. 468, § 2, eff from and after Jan. 1, 2005.

§ 57-91-5. Definitions.

As used in this chapter, the following words and phrases shall have the meanings ascribed herein unless the context clearly indicates otherwise:

(a) "Business enterprise" means any permanent business enterprise locating or relocating within a redevelopment project area, including, without limitation:

(i) Industry for the manufacturing, processing, assembling, storing, warehousing, servicing, distributing or selling of any products or goods, including products of agriculture;

(ii) Enterprises for research and development, including, but not limited to, scientific laboratories;

(iii) Industry for the retail sale of goods and services;

(iv) The industry for recreation and hospitality, including, but not limited to, restaurants, hotels and sports facilities; and

(v) Such other businesses or industry as will be in furtherance of the public purposes of this chapter as determined by the MDA.

The term "business enterprise" shall not include gaming businesses.

(b) "Contaminated site" means real property that is either (i) subject to a bankruptcy court order in which the property has been abandoned from the bankruptcy estate, or (ii) Brownfield property that is subject to a Brownfield agreement under Section 49-35-11, and the expansion, redevelopment or reuse of which is complicated by the presence or potential presence of a hazardous substance, pollutant or contaminant.

(c) "County" means any county of this state.

(d) "Developer" means any person who assumes certain environmental liability at a contaminated site and enters into an agreement with a redevelopment county or municipality whereby the developer agrees to undertake a redevelopment project. "Developer agreement" means said agreement.

(e) "Governing body" means the board of supervisors of any county or the governing board of a municipality.

(f) "Law" means any act or statute, general, special or local, of this state.

(g) "MDA" means the Mississippi Development Authority.

(h) "MDEQ" means the Mississippi Department of Environmental Quality.

(i) "Municipality" means any incorporated municipality in the state.

(j) "Person" means a natural person, partnership, association, corporation, business trust or other business entity.

(k) "Redevelopment counties and municipalities" means those counties or municipalities which meet the requirements of this chapter and which have by resolution or order designated a redevelopment project area and given its consent to participate in the program established under this chapter.

(*l*) "Redevelopment project" means a project that combines remediation of a contaminated site with the planned development of such site and surrounding land in a manner conducive to use by the public or business enterprises including the construction of recreational facilities.

(m) "Redevelopment project area" means the geographic area defined by resolution of the county or municipality within which the remediation and planned development will take place containing the contaminated site and additional surrounding and adjacent land and waterfront, not exceeding six hundred fifty (650) acres, suitable for development.

(n) "Resolution" means an order, resolution, ordinance, act, record of minutes or other appropriate enactment of a governing body.

(o) "State taxes and fees" means any sales tax imposed on the sales or certain purchases by a business enterprise pursuant to law within a redevelopment project area, all income tax imposed pursuant to law on income earned by the approved business enterprise within a redevelopment project area and all franchise tax imposed pursuant to law on the value of capital used, invested or employed by the approved business enterprise in a redevelopment project area.

SOURCES: Laws, 2005, ch. 468, § 3; Laws, 2013, ch. 486, § 1, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment in (b), inserted "either (i)" and "or (ii) Brownfield property that is subject to a Brownfield agreement under Section 49-35-11."

Cross References — Mississippi Department of Environmental Quality generally, see §§ 49-2-1 et seq.

Mississippi Development Authority generally, see §§ 57-1-1 et seq.

§ 57-91-7. Designation as redevelopment counties and municipalities.

(1) From and after January 1, 2005, any counties or municipalities meeting the following conditions may apply to the MDA for the issuance of a certificate of public convenience and necessity:

(a) There is located within such county or municipality a contaminated site;

(b) There has been established by resolution of the county or municipality a redevelopment project area;

(c) There is submitted to the MDA application for designation as a redevelopment county or municipality which, at minimum, contains (i) MDEQ concurrence of the existence of a contaminated site and concurrence and involvement in the assessment and remediation plan, (ii) a resolution of the county or municipality setting forth the boundaries of the redevelopment project area and consenting to the designation of the county or municipality as a redevelopment county or municipality, and (iii) a developer agreement.

(2) If a proposed redevelopment project area falls wholly within the municipality, only the municipality must apply to the MDA for designation as a redevelopment municipality. If a proposed redevelopment project area falls wholly within the county and outside the boundaries of a municipality, only the county may apply to the MDA for designation as a redevelopment county. If a proposed redevelopment project area falls partly within and partly without a municipality, then both the county and municipality must apply for designation as a redevelopment county and municipality; however, the county and municipality may submit a single application to the MDA, but the governing

bodies of both the county and the municipality must pass resolutions meeting the requirements of paragraph (c)(ii) of subsection (1) of this section.

SOURCES: Laws, 2005, ch. 468, § 4; Laws, 2013, ch. 486, § 2, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment deleted "and until December 31, 2009" following "From and after January 1, 2005," in (1).

Cross References — Mississippi Department of Environmental Quality generally, see §§ 49-2-1 et seq.

Mississippi Development Authority generally, see §§ 57-1-1 et seq.

§ 57-91-9. Redevelopment Project Incentive Fund created; incentive payments.

(1) There is created in the State Treasury a special fund to be known as the "Redevelopment Project Incentive Fund," into which shall be deposited certain state taxes and fees collected from business enterprises located within the redevelopment project area.

The monies in the fund shall be used for the purpose of making the incentive payments authorized in this section. The fund shall be administered by the MDA. Any interest earned on or investment earnings on the amounts in the fund shall be deposited to the credit of the fund. Unexpended amounts remaining in the fund at the end of a fiscal year that are not necessary for incentive payments shall lapse into the General Fund. The MDA may use not more than one percent (1%) of interest earned or investment earnings, or both, on amounts in the fund for administration and management of the incentive program. The MDEQ may use not more than one percent (1%) of interest earned or investment earnings, or both, on amounts in the fund for oversight costs of the assessment and remediation of the contaminated site.

(2)(a) Incentive payments may be made by the MDA to a developer in connection with a redevelopment project. Subject to the provisions of this subsection, the payments to a developer shall be for the amount of state taxes and fees collected from business enterprises located and operating within a redevelopment project area and deposited into the Redevelopment Project Incentive Fund. In the case of sales taxes, the amounts deposited in the Redevelopment Project Incentive Fund shall be reduced by the diversions required in Section 27-65-75. The MDA shall make payments to an approved participant on a semiannual basis with payments being made in the months of January and July. The MDA shall make the calculations necessary to make the payments provided for in this section. The MDA shall cease making incentive payments to a developer fifteen (15) years from the date that is two (2) years after the date on which the redevelopment project is approved by the MDA.

(b) Except as otherwise provided in this subsection, payments made to a developer under this section shall be in the following amounts:

(i) For the first six (6) years in which such payments are made, the developer shall receive one hundred percent (100%) of the funds deposited into the Redevelopment Project Incentive Fund;

(ii) For the seventh year in which such payments are made, the developer shall receive eighty percent (80%) of the funds deposited into the Redevelopment Project Incentive Fund;

(iii) For the eighth year in which such payments are made, the developer shall receive seventy percent (70%) of the funds deposited into the Redevelopment Project Incentive Fund;

(iv) For the ninth year in which such payments are made, the developer shall receive sixty percent (60%) of the funds deposited into the Redevelopment Project Incentive Fund; and

(v) For the tenth year and any subsequent year in which such payments are made, the developer shall receive fifty percent (50%) of the funds deposited into the Redevelopment Project Incentive Fund.

(c) In no event shall the total aggregate amount of incentive payments that may be made to a developer under this section exceed two and one-half (2-½) times the amount of the allowable cost of remediation of the contaminated site. The allowable cost of remediation of the contaminated site shall be jointly determined by the MDEQ and the MDA.

(d) Any monies in the Redevelopment Project Incentive Fund which are not used for the purpose of making incentive payments to a developer shall be deposited into the State General Fund. The developer shall not distribute the proceeds of any incentive payment to a business enterprise.

(3) At such time as payments are no longer required to be made to a developer, the MDA shall notify the Department of Revenue and the state taxes and fees collected from business enterprises located within the redevelopment project area shall no longer be deposited into the Redevelopment Project Incentive Fund.

SOURCES: Laws, 2005, ch. 468, § 5; Laws, 2013, ch. 486, § 3, eff from and after July 1, 2013.

Amendment Notes — The 2013 amendment substituted “fifteen (15)” for “ten (10)” in the last sentence of (2)(a); inserted “and any subsequent year” in (2)(b)(v); and substituted “Department of Revenue” for “State Tax Commission” in (3).

Cross References — Mississippi Department of Environmental Quality generally, see §§ 49-2-1 et seq.

Mississippi Development Authority generally, see §§ 57-1-1 et seq.

§ 57-91-11. Rules and regulations.

The MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation and administration of this chapter.

SOURCES: Laws, 2005, ch. 468, § 6, eff from and after Jan. 1, 2005.

Cross References — Mississippi Administrative Procedures Law generally, see §§ 25-43-1.101 et seq.

Mississippi Development Authority generally, see §§ 57-1-1 et seq.

CHAPTER 93

Mississippi Existing Industry Productivity Loan Program

Sec.
57-93-1. Definitions; Mississippi Existing Industry Productivity Loan Program established; amount of loan; interest rate; powers of Mississippi Development Authority to implement and administer program; Mississippi Existing Industry Productivity Loan Fund created; Mississippi Existing Industry Productivity Loan Program Bond Sinking Fund created.

§ 57-93-1. Definitions; Mississippi Existing Industry Productivity Loan Program established; amount of loan; interest rate; powers of Mississippi Development Authority to implement and administer program; Mississippi Existing Industry Productivity Loan Fund created; Mississippi Existing Industry Productivity Loan Program Bond Sinking Fund created.

(1) As used in this section:

(a) "Existing industry" means a manufacturing enterprise that has been operating in this state for not less than two (2) consecutive years that meets minimum criteria established by the Mississippi Development Authority.

(b) "Long-term fixed assets" means assets that:

(i) Through new technology will improve an enterprise's productivity and competitiveness; and

(ii) Meet criteria established by the Mississippi Development Authority.

(c) "MDA" means the Mississippi Development Authority.

(2)(a) There is established the Mississippi Existing Industry Productivity Loan Program to be administered by the MDA for the purpose of providing loans to:

(i) Existing industries to deploy long-term fixed assets that through new technology will improve productivity and competitiveness;

(ii) Existing industries for the purchase or refinancing of land, buildings or equipment; and

(iii) Counties or incorporated municipalities to assist existing industries in deploying long-term fixed assets that through new technology will improve productivity and competitiveness and to assist existing industries through the purchase of land, buildings and equipment.

(b)(i) An existing industry that accepts a loan under this program shall not reduce employment by more than twenty percent (20%) through the use of the long-term fixed assets for which the loan is granted.

(ii) An existing industry that accepts assistance from a county or incorporated municipality through a loan made under this program shall not reduce employment by more than twenty percent (20%) through the use of the long-term fixed assets for which the assistance is granted.

(c) An existing industry desiring a loan under this section must submit an application to the MDA. The application shall include:

(i) A description of the purpose for which the loan is requested;

(ii) The amount of the loan requested;

(iii) The estimated total cost of the project;

(iv) A two-year business plan for the project;

(v) Financial statements or tax returns for the existing industry for the two (2) years immediately prior to the application;

(vi) Credit reports on all persons or entities with a twenty percent (20%) or greater interest in the enterprise; and

(vii) Any other information required by the MDA.

(d) A county or incorporated municipality desiring a loan under this section must submit an application to the MDA. The application shall include:

(i) A description of the purpose for which the loan is requested;

(ii) The amount of the loan requested;

(iii) The estimated total cost of the project;

(iv) A statement showing the sources of funding for the project;

(v) A two-year business plan for the project;

(vi) Financial statements or tax returns for the existing industry for the two (2) years immediately prior to the application;

(vii) Credit reports on all persons or entities with a twenty percent (20%) or greater interest in the existing industry;

(viii) Any commitment by the existing industry to pay rental on, or to make loan repayments related to, the assistance; and

(ix) Any other information required by the MDA.

(e) The MDA shall require that binding commitments be entered into requiring that:

(i) The minimum requirements of this section and such other requirements as the MDA considers proper shall be met; and

(ii) If such requirements are not met, all or a portion of the funds provided by this section as determined by the MDA shall be repaid.

(f) The rate of interest on loans under this section shall be set by the MDA.

(g) The MDA shall have all powers necessary to implement and administer the program established under this section, and the MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section. However, in making loans under this section, the MDA shall attempt to provide for an equitable distribution of such loans among each of the congressional districts of this state in order to promote economic development across the entire state.

(3)(a) There is created in the State Treasury a special fund to be designated as the "Mississippi Existing Industry Productivity Loan Fund," which shall consist of funds appropriated or otherwise made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used by the MDA for the purposes described in this section.

(b) Monies in the fund which are derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA in providing loans under this section through the use of general obligation bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each loan by the MDA. Reimbursement of reasonable actual and necessary costs shall not exceed three percent (3%) of the proceeds of bonds that are deposited into the fund. Monies authorized for a particular loan may not be used to reimburse administrative costs for unrelated loans. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(c)(i) There is hereby created the Mississippi Existing Industry Productivity Loan Program Bond Sinking Fund from which the principal and interest on bonds whose proceeds are deposited into the Mississippi Existing Industry Productivity Loan Fund and utilized to provide loans authorized under this section, shall be repaid. Unexpended amounts remaining in the bond sinking fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the bond sinking fund shall be deposited into the bond sinking fund. At any time when the funds required to pay the principal and interest on bonds whose proceeds are deposited into the Mississippi Existing Industry Productivity Loan Fund and are utilized to provide loans under this section are more than the amount available in the bond sinking fund, the Legislature shall appropriate the balance of the funds necessary to pay the principal and interest on such bonds.

(ii) Money repaid on loans authorized under this section that are derived from the proceeds of bonds deposited into the Mississippi Existing Industry Productivity Loan Fund shall be deposited into the Mississippi Existing Industry Productivity Loan Program Bond Sinking Fund.

(4)(a) A county that receives a loan under this section shall pledge for repayment of the loan any part of the homestead exemption annual tax loss reimbursement to which it may be entitled under Section 27-33-77. An incorporated municipality that receives a loan under this section shall pledge for repayment of the loan any part of the sales tax revenue distribution to which it may be entitled under Section 27-65-75. Each loan agreement shall provide for monthly payments, semiannual payments or other periodic payments, the annual total of which shall not exceed the annual total for any other year of the loan by more than fifteen percent (15%). The loan agreement shall provide for the repayment of all funds received within not more than twenty (20) years from the date of project completion.

(b) The State Auditor, upon request of the MDA, shall audit the receipts and expenditures of a county or an incorporated municipality whose loan payments appear to be in arrears, and if he finds that the county or municipality is in arrears in such payments, he shall immediately notify the Executive Director of the Department of Finance and Administration who shall withhold all future payments to the county of homestead exemption reimbursements under Section 27-33-77 and all sums allocated to the county or the municipality under Section 27-65-75 until such time as the county or the municipality is again current in its loan payments as certified by the MDA. In addition, the State Auditor may conduct performance and compliance audits under this chapter according to Section 7-7-211(o) and may bill the oversight agency.

(c) Evidences of indebtedness which are issued pursuant to this chapter shall not be deemed indebtedness within the meaning specified in Section 21-33-303 with regard to cities or incorporated towns, and in Section 19-9-5 with regard to counties.

SOURCES: Laws, 2005, 3rd Ex Sess, ch. 1, § 1; Laws, 2007, ch. 382, § 1; Laws, 2009, ch. 557, § 23; Laws, 2014, ch. 427, § 7, eff from and after July 1, 2014.

Editor's Note — This section was enacted with two subsections designated as (2). At the direction of Co-Counsel of the Joint Legislative Committee on Compilation, Revision and Publication of Legislation, the second occurence of (2) has been redesignated as (3).

Amendment Notes — The 2014 amendment added the last sentence of (4)(b).

Cross References — Preparation and filing of quarterly report regarding net economic impact on state as result of incentive or assistance authorized under Sections 1 through 37 of Chapter 1, Laws of 2005, Third Extraordinary Session, see § 57-1-12.1.

Mississippi Development Authority to accommodate and support any entity using funds made available under Sections 1 through 37 of Chapter 1, Laws of 2005, Third Extraordinary Session wishing to have program of diversity in contracting, etc., see § 57-1-58.

Business or other entity convicted of intentionally hiring illegal immigrants is ineligible to receive any form of assistance made available under Sections 1 through 57 of Chapter 1, Laws of 2005, Third Extraordinary Session, see § 57-1-371.

CHAPTER 95

Mississippi Job Protection Act

Sec.
57-95-1. Definitions; Mississippi Job Protection Act established; purpose; loan application; amount of loan; interest rate; powers of Mississippi Development Authority to implement and administer program; grants to at-risk industries; Mississippi Job Protection Act Fund created; Mississippi Job Protection Act Bond Sinking Fund created.

§ 57-95-1. Definitions; Mississippi Job Protection Act established; purpose; loan application; amount of loan; interest rate; powers of Mississippi Development Authority to implement and administer program; grants to at-risk industries; Mississippi Job Protection Act Fund created; Mississippi Job Protection Act Bond Sinking Fund created.

(1) As used in this section:

(a) "At-risk industry" means any enterprise that has been operating in this state for not less than three (3) consecutive years that has lost jobs or is at risk to lose jobs because such jobs have been outsourced.

(b) "MDA" means the Mississippi Development Authority.

(c) "Outsource" means to send out work or jobs of a certain provider or manufacturer of the State of Mississippi to an overseas provider or manufacturer or a provider or manufacturer located outside the boundaries of the United States or any territory of the United States.

(2)(a) There is established the Mississippi Job Protection Act to be administered by the MDA for the purpose of providing grants and loans to:

(i) At-risk industries to be used for job retention and to improve productivity and competitiveness; and

(ii) Counties and incorporated municipalities to provide assistance to at-risk industries to be used for job retention and to improve productivity and competitiveness.

(b)(i) An at-risk industry that accepts a grant or loan under this program shall not reduce employment by more than twenty percent (20%).

(ii) An at-risk industry that accepts assistance from a county or incorporated municipality through a loan or grant made under this section shall not reduce employment by more than twenty percent (20%).

(c) An at-risk industry desiring a grant or loan under this section must submit an application to the MDA. The application shall include:

(i) A description of the purpose for which the grant or loan is requested;

(ii) The amount of the grant or loan requested;

(iii) The estimated total cost of the project;

(iv) A two-year business plan for the project;

(v) Financial statements or tax returns for the at-risk industry for the two (2) years immediately prior to the application;

(vi) Credit reports on all persons or entities with a twenty percent (20%) or greater interest in the at-risk industry; and

(vii) Any other information required by the MDA.

(d) A county or incorporated municipality desiring a grant or loan under this section must submit an application to the MDA. The application shall include:

(i) A description of the purpose for which the loan is requested;

(ii) The amount of the grant or loan requested;

(iii) The estimated total cost of the project;

(iv) A statement showing the sources of funding for the project;

(v) A two-year business plan for the project;

(vi) Financial statements or tax returns for the at-risk industry for the two (2) years immediately prior to the application;

(vii) Credit reports on all persons or entities with a twenty percent (20%) or greater interest in the at-risk industry;

(viii) Any commitment by the at-risk industry to pay rental on, or to make loan repayments related to, the assistance; and

(ix) Any other information required by the MDA.

(e) The MDA shall require that binding commitments be entered into requiring that:

(i) The minimum requirements of this section and such other requirements as the MDA considers proper shall be met; and

(ii) If such requirements are not met, all or a portion of the funds provided by this section as determined by the MDA shall be repaid.

(f) The amount of a grant or loan under this section shall not exceed fifty percent (50%) of the total cost of the project.

(g) The MDA shall have all powers necessary to implement and administer the program established under this section, and the MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, necessary for the implementation of this section.

(3) Grants under this section shall not exceed Two Hundred Thousand Dollars ($200,000.00).

(4)(a) There is created in the State Treasury a special fund to be designated as the "Mississippi Job Protection Act Fund," which shall consist of funds appropriated or otherwise made available by the Legislature in any manner and funds from any other source designated for deposit into such fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Monies in the fund shall be used by the MDA for the purposes described in this section.

(b) Monies in the fund which are derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA in providing grants or loans under this section through the use of general obligation bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each grant or loan by the MDA. Reimbursement of reasonable actual and necessary costs shall not exceed three percent (3%) of the proceeds of bonds issued under Sections 40 through 55 of Chapter 1, Laws of Third Extraordinary Session of 2005. Monies authorized for a particular grant or loan may not be used to reimburse administrative costs for unrelated grants or loans. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(c)(i) There is hereby created the Mississippi Job Protection Act Bond Sinking Fund from which the principal and interest on bonds whose proceeds are deposited into the Mississippi Job Protection Act Fund and utilized to provide loans authorized under this section, shall be repaid. Unexpended amounts remaining in the bond sinking fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the bond sinking fund shall be deposited into the bond sinking fund. At any time when the funds required to pay the principal and interest on bonds whose proceeds are deposited into the Mississippi Job Protection Act Fund and are utilized to provide loans under this section are more than the amount available in the bond sinking fund, the Legislature shall appropriate the balance of the funds necessary to pay the principal and interest on such bonds.

(ii) Money repaid on loans authorized under this section that are derived from the proceeds of bonds deposited into the Mississippi Job Protection Act Fund shall be deposited into the Mississippi Job Protection Act Bond Sinking Fund.

(5)(a) A county that receives a loan under this section shall pledge for repayment of the loan any part of the homestead exemption annual tax loss reimbursement to which it may be entitled under Section 27-33-77. An incorporated municipality that receives a loan under this section shall pledge for repayment of the loan any part of the sales tax revenue distribution to which it may be entitled under Section 27-65-75. Each loan agreement shall provide for monthly payments, semiannual payments or other periodic payments, the annual total of which shall not exceed the annual total for any other year of the loan by more than fifteen percent (15%). The loan agreement shall provide for the repayment of all funds received within not more than twenty (20) years from the date of project completion.

(b) The State Auditor, upon request of the MDA, shall audit the receipts and expenditures of a county or an incorporated municipality whose loan payments appear to be in arrears, and if he finds that the county or municipality is in arrears in such payments, he shall immediately notify the Executive Director of the Department of Finance and Administration who shall withhold all future payments to the county of homestead exemption reimbursements under Section 27-33-77 and all sums allocated to the county or the municipality under Section 27-65-75 until such time as the county or the municipality is again current in its loan payments as certified by the

MDA. The State Auditor may conduct performance and compliance audits under this chapter according to Section 7-7-211(o) and may bill the oversight agency.

(c) Evidences of indebtedness which are issued pursuant to this section shall not be deemed indebtedness within the meaning specified in Section 21-33-303 with regard to cities or incorporated towns, and in Section 19-9-5 with regard to counties.

SOURCES: Laws, 2005, 3rd Ex Sess, ch. 1, § 39; Laws, 2007, ch. 382, § 2; Laws, 2014, ch. 427, § 8, eff from and after July 1, 2014.

Amendment Notes — The 2014 amendment added the last sentence in (5)(b).

Cross References — Mississippi Administrative Procedures Law generally, see §§ 25-43-1.101 et seq.

Mississippi Development Authority generally, see §§ 57-1-1 et seq.

Business or other entity convicted of intentionally hiring illegal immigrants is ineligible to receive any form of assistance made available under Sections 1 through 57 of Chapter 1, Laws of 2005, Third Extraordinary Session, see § 57-1-371.

CHAPTER 97

Mississippi Delta Revitalization Act of 2006

Sec.
57-97-1 through 57-97-23. Repealed

§§ 57-97-1 through 57-97-23. Repealed.

Repealed by Laws, 2006, ch. 444, § 13, effective July 1, 2009.

§ 57-97-1. [Laws, 2006, ch. 444, § 1, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-3. [Laws, 2006, ch. 444, § 2, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-5. [Laws, 2006, ch. 444, § 3, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-7. [Laws, 2006, ch. 444, § 4, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-9. [Laws, 2006, ch. 444, § 5, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-11. [Laws, 2006, ch. 444, § 6, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-13. [Laws, 2006, ch. 444, § 7, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-15. [Laws, 2006, ch. 444, § 8, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-17. [Laws, 2006, ch. 444, § 9, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-19. [Laws, 2006, ch. 444, § 10, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-21. [Laws, 2006, ch. 444, § 11, eff from and after passage (approved Mar. 23, 2006.)]

§ 57-97-23. [Laws, 2006, ch. 444, § 12, eff from and after passage (approved Mar. 23, 2006.)]

Editor's Note — Former § 57-97-1 provided the title of the Mississippi Delta Region Revitalization Act of 2006.

Former § 57-97-3 defined the Delta Region and provided legislative findings and declarations.

Former § 57-97-5 created the Special Task Force for Revitalization of the Mississippi Delta Region.

Former § 57-97-7 provided that the University Research Center Bureau of Comprehensive Long-Range Economic Development Planning was to serve the Special Task Force for Revitalization of the Mississippi Delta Region and the duties and responsibilities of the Bureau.

Former § 57-97-9 related to the mission and role of the Special Task Force.

Former § 57-97-11 required the Bureau to prepare a long-range action plan for revitalization of the region.

Former § 57-97-13 related to the contents of Part I of the revitalization action plan.

Former § 57-97-15 related to the contents of Part II of the revitalization action plan.

Former § 57-97-17 related to the contents of Part III of the revitalization action plan.
Former § 57-97-19 related to the contents of Part IV of the revitalization action plan.
Former § 57-97-21 related to the contents of Part V of the revitalization action plan.
Former § 57-97-23 provided the completion date for all five parts of the plan.

CHAPTER 99

Mississippi Major Economic Impact Withholding Rebate Incentive Program

Qualified Business or Industry — Companies and Their Affiliates 57-99-1

Qualified Business or Industry — Enterprises 57-99-21

QUALIFIED BUSINESS OR INDUSTRY — COMPANIES AND THEIR AFFILIATES

Sec.	
57-99-1.	Definitions.
57-99-3.	Quarterly incentive payments to qualified companies and their affiliates; duration of payments; application; job requirements; notification of State Tax Commission.
57-99-5.	Creation of MMEIA Withholding Rebate Fund, purpose.
57-99-7.	Filing of claim for incentive payments; payments dependent on verification of number of qualified jobs created and maintained.
57-99-9.	Promulgation of rules and regulations by the Mississippi Development Authority and State Tax Commission.

§ 57-99-1. Definitions.

As used in Sections 57-99-1 through 57-99-9, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Qualified business or industry" means any company and affiliates thereof, pursuant to rules and regulations of the MDA, which is:

(i) A project that has been certified by the Mississippi Major Economic Impact Authority (MMEIA) as a project defined in Section 57-75-5(f)(xxi) and creates at least one thousand five hundred (1,500) jobs within sixty (60) months of the beginning of the project;

(ii) A project that has been certified by the MMEIA as a project defined in Section 57-75-5(f)(xxii) and creates at least five hundred (500) jobs within seventy-two (72) months of the beginning of the project; or

(iii) A project:

1. That has been certified by the MMEIA as a project defined in Section 57-75-5(f)(xxviii);

2. Creates at least twenty-five (25) jobs within sixty (60) months of the beginning of the project; and

3. In which the average annual wages and taxable benefits of the jobs created by such project are at least one hundred ten percent (110%) of the most recently published average annual wage of the state or the most recently published average annual wage of the county in which the project is located, as determined by the Mississippi Department of Employment Security, whichever is the lesser.

(b) "Qualified job" means full-time employment in this state within the project site of a qualified business or industry that has qualified to receive an incentive payment pursuant to Sections 57-99-1 through 57-99-9, which employment did not exist in this state before the date of approval by the MDA of the application of the qualified business or industry pursuant to the provisions of Sections 57-99-1 through 57-99-9. "Qualified job" also shall include full-time employment in this state of employees who are employed by an entity other than the establishment that has qualified to receive an incentive payment such as employees who are leased to and managed by the qualified business or industry, if such employment did not exist in this state before the date of approval by the MDA of the application of the establishment; provided, however, that in order for a qualified business or industry to receive incentive payments for such employees, the actual employer of the employees must agree to such payments being made to the qualified business or industry.

(c) "Full-time employment" means a job of at least thirty-five (35) hours per week.

(d) "Rebate amount" means the amount of Mississippi income taxes withheld from employees in qualified jobs that is available for rebate to the qualified business or industry, provided that:

(i) Except as otherwise provided in this paragraph (d), the rebate amount shall be three and one-half percent (3-½%) of the wages and taxable benefits for qualified jobs; and

(ii) In no event shall incentive payments exceed the actual Mississippi income taxes withheld from employees in qualified jobs that are available for rebate to the qualified business or industry.

(e) "MDA" means the Mississippi Development Authority.

SOURCES: Laws, 2007, ch. 303, § 17; Laws, 2007, 1st Ex Sess, ch. 1, § 14; Laws, 2013, 1st Ex Sess, ch. 1, § 7, eff from and after passage (approved April 28, 2013.)

Amendment Notes — The 2013 amendment added (a)(iii) and made related changes.

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

Mississippi Major Economic Impact Authority generally, see §§ 57-75-1 et seq.

§ 57-99-3. Quarterly incentive payments to qualified companies and their affiliates; duration of payments; application; job requirements; notification of State Tax Commission.

(1) Except as otherwise provided in this section, a qualified business or industry that meets the qualifications specified in Sections 57-99-1 through 57-99-9 may receive quarterly incentive payments for a period not to exceed twenty-five (25) years from the State Tax Commission pursuant to the provisions of Sections 57-99-1 through 57-99-9 in an amount which shall be equal to the lesser of three and one-half percent (3-½%) of the wages and taxable benefits for qualified jobs or the actual amount of Mississippi income tax withheld by the employer for the qualified jobs. A qualified business or

industry may elect the date upon which the incentive rebate period will begin. Such date may not be later than sixty (60) months after the date the business or industry applied for incentive payments; however, in the case of a qualified business or industry described in Section 57-99-1(a)(ii), such date may not be later than seventy-two (72) months after the date the business or industry applied for incentive payments.

(2) In order to receive incentive payments, an establishment shall apply to the MDA. The application shall be on a form prescribed by the MDA and shall contain such information as may be required by the MDA to determine if the applicant is qualified.

(3) In order to qualify to receive such payments, the establishment applying shall be required to:

(a) Be engaged in a qualified business or industry; and

(b) The business or industry must create and maintain the minimum number of qualified jobs as set forth in Section 57-99-1. Establishments that are approved as a qualified business or industry under Sections 57-99-1 through 57-99-9 may not receive incentive payments under Section 57-62-1 et seq.

(4) Upon approval of such an application, the MDA shall notify the State Tax Commission and shall provide it with a copy of the approved application. The State Tax Commission may require the qualified business or industry to submit such additional information as may be necessary to administer the provisions of Sections 57-99-1 through 57-99-9. The qualified business or industry shall report to the State Tax Commission periodically to show its continued eligibility for incentive payments. The qualified business or industry may be audited by the State Tax Commission to verify such eligibility.

SOURCES: Laws, 2007, ch. 303, § 18; Laws, 2007, 1st Ex Sess, ch. 1, § 15, eff from and after passage (approved May 11, 2007.)

Editor's Note — Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

Quarterly incentive payments to qualified enterprises, see § 57-99-23.

§ 57-99-5. Creation of MMEIA Withholding Rebate Fund, purpose.

(1) There is created in the State Treasury a special fund to be known as the "MMEIA Withholding Rebate Fund," into which shall be deposited withholding tax revenue required to be deposited into such fund pursuant to Section 27-7-312. The money in the fund shall be used for the purpose of making the incentive payments authorized under Sections 57-99-1 through 57-99-9.

(2) The liability of the State of Mississippi to make the incentive payments authorized under Sections 57-99-1 through 57-99-9 shall be limited to the balance contained in the fund.

SOURCES: Laws, 2007, ch. 303, § 19, eff from and after passage (approved Mar. 2, 2007.)

Cross References — Mississippi Major Economic Impact Authority generally, see §§ 57-75-1 et seq.

Creation of MMEIA Rebate Fund, see § 57-99-25.

§ 57-99-7. Filing of claim for incentive payments; payments dependent on verification of number of qualified jobs created and maintained.

(1) As soon as practicable after the end of a calendar quarter for which a qualified business or industry has qualified to receive an incentive payment, the qualified business or industry shall file a claim for the payment with the State Tax Commission and shall specify the actual number of qualified jobs created and maintained by the business or industry for the calendar quarter and the wages and taxable benefits thereof. The State Tax Commission shall verify the actual number of qualified jobs created and maintained by the business or industry. If the State Tax Commission is not able to provide such verification utilizing all available resources, the State Tax Commission may request such additional information from the business or industry as may be necessary.

(2)(a) The business or industry must meet the job requirements of Sections 57-99-1 through 57-99-9 for four (4) consecutive calendar quarters prior to payment of the first incentive payment. If the business or industry does not maintain the job requirements of Sections 57-99-1 through 57-99-9 at any other time during the twenty-five-year period after the date the first payment was made, the incentive payments shall not be made and shall not be resumed until such time as the actual verified number of qualified jobs created and maintained by the business or industry equals or exceeds the requirements of Sections 57-99-1 through 57-99-9 for one (1) calendar quarter.

(3) An establishment that has qualified pursuant to Sections 57-99-1 through 57-99-9 may receive payments only in accordance with the provision under which it initially applied and was approved. If an establishment that is receiving incentive payments expands, it may apply for additional incentive payments based on the wages and taxable benefits for qualified jobs anticipated from the expansion only, pursuant to Sections 57-99-1 through 57-99-9.

(4) As soon as practicable after verification of the qualified business or industry meeting the requirements of Sections 57-99-1 through 57-99-9 and all rules and regulations, the Department of Finance and Administration, upon requisition of the State Tax Commission, shall issue a warrant drawn on the MMEIA Withholding Rebate Fund to the establishment in the amount of the

rebate as determined pursuant to subsection (1) of this section for the calendar quarter.

SOURCES: Laws, 2007, ch. 303, § 20, eff from and after passage (approved Mar. 2, 2007.)

Editor's Note — Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Cross References — Mississippi Major Economic Impact Authority generally, see §§ 57-75-1 et seq.

Filing of claim for incentive payments by qualified enterprise, see § 57-99-27.

§ 57-99-9. Promulgation of rules and regulations by the Mississippi Development Authority and State Tax Commission.

The MDA and the State Tax Commission shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, and all application forms and other forms necessary to implement their respective duties and responsibilities under the provisions of Sections 57-99-1 through 57-99-9.

SOURCES: Laws, 2007, ch. 303, § 21, eff from and after passage (approved Mar. 2, 2007.)

Editor's Note — Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Cross References — Mississippi Administrative Procedures Law generally, see §§ 25-43-1.101 et seq.

State Tax Commission duties and powers generally, see § 27-3-31.

Mississippi Development Authority generally, see §§ 57-1-1 et seq.

QUALIFIED BUSINESS OR INDUSTRY — ENTERPRISES

Sec.	
57-99-21.	Definitions.
57-99-23.	Quarterly incentive payments to qualified enterprises; duration of payments; application; job requirements; notification of State Tax Commission.
57-99-25.	Creation of MMEIA Rebate Fund; purpose.
57-99-27.	Filing of incentive payment claims; payments dependent on verification of number of qualified jobs created and maintained.
57-99-29.	Mississippi Development Authority and State Tax Commission to promulgate rules and regulations.

§ 57-99-21. Definitions.

As used in Sections 57-99-21 through 57-99-29, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Qualified business or industry" means any enterprise which is a project that has been certified by the Mississippi Major Economic Impact Authority (MMEIA) as a project defined in Section 57-75-5(f)(xxiv).

(b) "Qualified job" means full-time employment at the location of the manufacturing plant in this state of a qualified business or industry that has qualified to receive an incentive payment pursuant to Sections 57-99-21 through 57-99-29, which employment existed in this state at the location of the manufacturing plant on July 1, 2009.

(c) "Full-time employment" means a job of at least thirty-five (35) hours per week.

(d) "Rebate amount" means the amount of Mississippi income taxes withheld from employees in qualified jobs that is available for rebate to the qualified business or industry, provided that:

(i) Except as otherwise provided in this paragraph (d), the rebate amount shall be one percent (1%) of the wages and taxable benefits for qualified jobs;

(ii) In no event shall incentive payments exceed the actual Mississippi income taxes withheld from employees in qualified jobs that are available for rebate to the qualified business or industry; and

(iii) In no event shall the aggregate amount of incentive payments authorized under Sections 57-99-21 through 57-99-29 exceed Six Million Dollars ($6,000,000.00).

(e) "MDA" means the Mississippi Development Authority.

SOURCES: Laws, 2009, ch. 302, § 4, eff from and after passage (approved Feb. 3, 2009.)

§ 57-99-23. Quarterly incentive payments to qualified enterprises; duration of payments; application; job requirements; notification of State Tax Commission.

(1) Except as otherwise provided in this section, a qualified business or industry that meets the qualifications specified in Sections 57-99-21 through 57-99-29 may receive quarterly incentive payments for a period not to exceed ten (10) years from the State Tax Commission pursuant to the provisions of Sections 57-99-21 through 57-99-29 in an amount which shall be equal to the lesser of one percent (1%) of the wages and taxable benefits for qualified jobs or the actual amount of Mississippi income tax withheld by the employer for the qualified jobs.

(2) In order to receive incentive payments, an establishment shall apply to the MDA by not later than July 1, 2010. The application shall be on a form

prescribed by the MDA and shall contain such information as may be required by the MDA to determine if the applicant is qualified.

(3) In order to qualify to receive such payments, the establishment applying shall be required to:

(a) Be engaged in a qualified business or industry; and

(b) The business or industry must maintain a minimum of one thousand two hundred (1,200) qualified jobs.

(4) Upon approval of such an application, the MDA shall notify the State Tax Commission and shall provide it with a copy of the approved application. The State Tax Commission may require the qualified business or industry to submit such additional information as may be necessary to administer the provisions of Sections 57-99-21 through 57-99-29. The qualified business or industry shall report to the State Tax Commission periodically to show its continued eligibility for incentive payments. The qualified business or industry may be audited by the State Tax Commission to verify such eligibility.

SOURCES: Laws, 2009, ch. 302, § 5, eff from and after passage (approved Feb. 3, 2009.)

§ 57-99-25. Creation of MMEIA Rebate Fund; purpose.

(1) There is created in the State Treasury a special fund to be known as the "MMEIA Rebate Fund," into which shall be deposited withholding tax revenue required to be deposited into such fund pursuant to Section 27-7-312. The money in the fund shall be used for the purpose of making the incentive payments authorized under Sections 57-99-21 through 57-99-29.

(2) The liability of the State of Mississippi to make the incentive payments authorized under Sections 57-99-21 through 57-99-29 shall be limited to the balance contained in the fund.

SOURCES: Laws, 2009, ch. 302, § 6, eff from and after passage (approved Feb. 3, 2009.)

§ 57-99-27. Filing of incentive payment claims; payments dependent on verification of number of qualified jobs created and maintained.

(1) As soon as practicable after the end of a calendar quarter for which a qualified business or industry has qualified to receive an incentive payment, the qualified business or industry shall file a claim for the payment with the State Tax Commission and shall specify the actual number of qualified jobs created and maintained by the business or industry for the calendar quarter and the wages and taxable benefits thereof. The State Tax Commission shall verify the actual number of qualified jobs maintained by the business or industry. If the State Tax Commission is not able to provide such verification utilizing all available resources, the State Tax Commission may request such additional information from the business or industry as may be necessary.

(2) If the business or industry does not maintain the job requirements of Sections 57-99-21 through 57-99-29 at any other time during the ten-year period after the date the first payment was made, the incentive payments shall not be made and shall not be resumed until such time as the actual verified number of qualified jobs created and maintained by the business or industry equals or exceeds the requirements of Sections 57-99-21 through 57-99-29 for one (1) calendar quarter.

(3) An establishment that has qualified pursuant to Sections 57-99-21 through 57-99-29 may receive payments only in accordance with the provision under which it initially applied and was approved.

(4) As soon as practicable after verification of the qualified business or industry meeting the requirements of Sections 57-99-21 through 57-99-29 and all rules and regulations, the Department of Finance and Administration, upon requisition of the State Tax Commission, shall issue a warrant drawn on the MMEIA Withholding Rebate Fund to the establishment in the amount of the rebate as determined pursuant to subsection (1) of this section for the calendar quarter.

SOURCES: Laws, 2009, ch. 302, § 7, eff from and after passage (approved Feb. 3, 2009.)

Joint Legislative Committee Note — Pursuant to Section 1-1-109, the Joint Legislative Committee on Compilation, Revision and Publication of Legislation deleted the paragraph designation "(a)" from subsection (2) since there is no paragraph (b). The Joint Committee ratified the correction at its July 22, 2010, meeting.

§ 57-99-29. Mississippi Development Authority and State Tax Commission to promulgate rules and regulations.

The MDA and the State Tax Commission shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, and all application forms and other forms necessary to implement their respective duties and responsibilities under the provisions of Sections 57-99-21 through 57-99-29.

SOURCES: Laws, 2009, ch. 302, § 8, eff from and after passage (approved Feb. 3, 2009.)

CHAPTER 100

Existing Industry Withholding Rebate Incentive Program

Sec.	
57-100-1.	Definitions.
57-100-3.	Quarterly incentive payments to qualified business or industry; duration of payments; application; job requirements; notification of State Tax Commission.
57-100-5.	Creation of Existing Industry Withholding Rebate Fund; purpose.
57-100-7.	Filing of claim for incentive payments; payments dependent on verification of number of qualified jobs created and maintained.
57-100-9.	Promulgation of rules and regulations by the Mississippi Development Authority and State Tax Commission.

§ 57-100-1. Definitions.

As used in this chapter, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Qualified business or industry" means a manufacturing enterprise that has been operating in this state for not less than two (2) consecutive years that meets minimum criteria established by the Mississippi Development Authority.

(b) "Qualified job" means a full-time job in this state:

(i) At the location of a qualified business or industry that has qualified to receive an incentive payment pursuant to this chapter;

(ii) Which did not exist in this state before the date of approval by the MDA of the application of the qualified business or industry pursuant to the provisions of this chapter; and

(iii) The average annual salary of which is at least one hundred percent (100%) of the state or county average annual wage, whichever is the lesser.

(c) "Full-time employment" means a job of at least thirty-five (35) hours per week.

(d) "Rebate amount" means the amount of Mississippi income taxes withheld from employees in qualified jobs that is available for rebate to the qualified business or industry, provided that:

(i) Except as otherwise provided in this paragraph (d), the rebate amount shall be three and one-half percent (3-½%) of the wages and taxable benefits for qualified jobs; and

(ii) In no event shall incentive payments exceed the actual Mississippi income taxes withheld from employees in qualified jobs that are available for rebate to the qualified business or industry.

(e) "MDA" means the Mississippi Development Authority.

SOURCES: Laws, 2009, ch. 557, § 16, eff from and after passage (approved Apr. 17, 2009.)

Editor's Note — Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Laws 2009, ch. 557, § 57, provides:

"SECTION 57. No proceeds from these bonds may be used to pay, compensate or fund any lobbyist or government affairs individual(s) registered with the Secretary of State of Mississippi."

§ 57-100-3. Quarterly incentive payments to qualified business or industry; duration of payments; application; job requirements; notification of State Tax Commission.

(1) Except as otherwise provided in this section, a qualified business or industry that meets the qualifications specified in this chapter may receive quarterly incentive payments for a period not to exceed two (2) years from the State Tax Commission pursuant to the provisions of this chapter in an amount which shall be equal to the lesser of three and one-half percent (3-½%) of the wages and taxable benefits for qualified jobs or the actual amount of Mississippi income tax withheld by the employer for the qualified jobs. The two-year period shall begin the quarter after the State Tax Commission verifies that the required number of jobs have been created.

(2) In order to receive incentive payments, an establishment shall apply to the MDA. The application shall be on a form prescribed by the MDA and shall contain such information as may be required by the MDA to determine if the applicant is qualified.

(3) In order to qualify to receive such payments, the establishment applying shall be required to:

(a) Be engaged in a qualified business or industry; and

(b) The business or industry must create a minimum of ten (10) qualified jobs within six (6) months after the date of the application and maintain at least ten (10) qualified jobs.

(4) Upon approval of such an application, the MDA shall notify the State Tax Commission and shall provide it with a copy of the approved application. The State Tax Commission may require the qualified business or industry to submit such additional information as may be necessary to administer the provisions of this chapter. The State Tax Commission shall verify that at least ten (10) qualified jobs have been created within six (6) months after the date of the application before incentive payments may begin. The qualified business or industry shall report to the State Tax Commission periodically to show its continued eligibility for incentive payments. The qualified business or industry may be audited by the State Tax Commission to verify such eligibility.

(5) No applications shall be accepted by MDA from and after July 1, 2011.

SOURCES: Laws, 2009, ch. 557, § 17, eff from and after passage (approved Apr. 17, 2009.)

Editor's Note — Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Laws 2009, ch. 557, § 57, provides:

"SECTION 57. No proceeds from these bonds may be used to pay, compensate or fund any lobbyist or government affairs individual(s) registered with the Secretary of State of Mississippi."

§ 57-100-5. Creation of Existing Industry Withholding Rebate Fund; purpose.

(1) There is created in the State Treasury a special fund to be known as the "Existing Industry Withholding Rebate Fund," into which shall be deposited withholding tax revenue required to be deposited into such fund pursuant to Section 27-7-312. The money in the fund shall be used for the purpose of making the incentive payments authorized under this chapter.

(2) The liability of the State of Mississippi to make the incentive payments authorized under this chapter shall be limited to the balance contained in the fund.

SOURCES: Laws, 2009, ch. 557, § 18, eff from and after passage (approved Apr. 17, 2009.)

Editor's Note — Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Laws 2009, ch. 557, § 57, provides:

"SECTION 57. No proceeds from these bonds may be used to pay, compensate or fund any lobbyist or government affairs individual(s) registered with the Secretary of State of Mississippi."

§ 57-100-7. Filing of claim for incentive payments; payments dependent on verification of number of qualified jobs created and maintained.

(1) As soon as practicable after the end of a calendar quarter for which a qualified business or industry has qualified to receive an incentive payment, the qualified business or industry shall file a claim for the payment with the State Tax Commission and shall specify the actual number of qualified jobs created and maintained by the business or industry for the calendar quarter and the wages and taxable benefits thereof. The State Tax Commission shall verify the actual number of qualified jobs created and maintained by the business or industry. If the State Tax Commission is not able to provide such verification utilizing all available resources, the State Tax Commission may request such additional information from the business or industry as may be necessary.

(2) If the business or industry does not maintain the job requirements of this chapter at any other time during the two-year period after the date the first payment was made, the incentive payments shall not be made and shall not be resumed until such time as the actual verified number of qualified jobs created and maintained by the business or industry equals or exceeds the requirements of this chapter for one (1) calendar quarter.

(3) A qualified business or industry that has qualified pursuant to this chapter may receive payments only in accordance with the provision under which it initially applied and was approved. If an establishment that is receiving incentive payments expands, it may apply for additional incentive payments based on the wages and taxable benefits for qualified jobs anticipated from the expansion only, pursuant to this chapter.

(4) As soon as practicable after verification of the qualified business or industry meeting the requirements of this chapter and all rules and regulations, the Department of Finance and Administration, upon requisition of the State Tax Commission, shall issue a warrant drawn on the Existing Industry Withholding Rebate Fund to the establishment in the amount of the rebate as determined pursuant to subsection (1) of this section for the calendar quarter.

SOURCES: Laws, 2009, ch. 557, § 19, eff from and after passage (approved Apr. 17, 2009.)

Editor's Note — Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Laws 2009, ch. 557, § 57, provides:

"SECTION 57. No proceeds from these bonds may be used to pay, compensate or fund any lobbyist or government affairs individual(s) registered with the Secretary of State of Mississippi."

§ 57-100-9. Promulgation of rules and regulations by the Mississippi Development Authority and State Tax Commission.

The MDA and the State Tax Commission shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, and all application forms and other forms necessary to implement their respective duties and responsibilities under the provisions of this chapter.

SOURCES: Laws, 2009, ch. 557, § 20, eff from and after passage (approved Apr. 17, 2009.)

Editor's Note — Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Laws 2009, ch. 557, § 57, provides:

"SECTION 57. No proceeds from these bonds may be used to pay, compensate or fund any lobbyist or government affairs individual(s) registered with the Secretary of State of Mississippi."

CHAPTER 101

Mississippi Major Economic Impact Authority Component Construction Material Costs Rebate Program

Sec.
57-101-1 through 57-101-5. Repealed

§§ 57-101-1 through 57-101-5. Repealed.

Repealed by Laws of 2013, ch. 447, § 5, effective from and after July 1, 2013.

§ 57-101-1. [Laws, 2007, ch. 303, § 23, eff from and after passage (approved Mar. 2, 2007.)]

§ 57-101-3. [Laws, 2007, ch. 303, § 24, eff from and after passage (approved Mar. 2, 2007.)]

§ 57-101-5. [Laws, 2007, ch. 303, § 25, eff from and after passage (approved Mar. 2, 2007.)]

Editor's Note — Former § 57-101-1 defined terms and phrases used in §§ 57-101-1 through 57-101-5.

Former § 57-101-3 created MMEIA Tax Incentive Fund.

Former § 57-101-5 pertained to the development, implementation and administration of the program.

Cross References — Transfer of all money in the MMEIA Tax Incentive Fund created by former § 57-101-3 to the Mississippi Development Authority Job Training Grant Fund, see § 57-1-451 and notes thereunder.

CHAPTER 103

Technology Based Business Capital Assistance Programs

Sec.

57-103-1. Research and Development Program established; eligibility for assistance; application; provisions of contract for assistance, expenditure of assistance, etc.; repayment of assistance; creation of Research and Development Program Fund.

57-103-3. Mississippi New Technology Business Program-Level 1 established; eligibility for assistance; application; provisions of contract for assistance, expenditure of assistance, etc.; repayment of assistance; creation of Mississippi New Technology Business Program-Level 1 Fund.

57-103-5. Mississippi New Technology Business Program-Level 2 established; eligibility for assistance; application; provisions of contract for assistance, expenditure of assistance, etc.; repayment of assistance; creation of Mississippi New Technology Business Program-Level 2 Fund.

57-103-7. Rural Innovation Program-Level 1 established; eligibility for assistance; application; provisions of contract for assistance, expenditure of assistance, etc.; repayment of assistance; creation of Rural Innovation Program-Level 1 Fund.

57-103-9. Rural Innovation Program-Level 2 established; eligibility for assistance; application; provisions of contract for assistance, expenditure of assistance, etc.; repayment of assistance; creation of Rural Innovation Program-Level 2 Fund.

57-103-11. Mississippi Technology Alliance Administration Fund created; purpose; disbursement of monies; Mississippi Technology Alliance to develop performance monitoring system and make annual performance report before receiving funds.

§ 57-103-1. Research and Development Program established; eligibility for assistance; application; provisions of contract for assistance, expenditure of assistance, etc.; repayment of assistance; creation of Research and Development Program Fund.

(1) There is established under the direction of the Mississippi Technology Alliance ("MTA") a program to be known as the "Research and Development Program" for the purpose of making assistance available for seed and early stage capital to small and medium sized Mississippi businesses with high growth potential that are engaged in research and development activities with a Mississippi university, college and/or community/junior college.

(2)(a) In order to be eligible for assistance under the program, a business must: (i) have its principal place of business based in Mississippi, (ii) produce or provide a product and/or service that is science or technology related, (iii) have completed its product and/or service development planning, and (iv) develop technology based business opportunity in partnership with a Mississippi university, college and/or community/junior college.

(b) Any business desiring to participate in the program must submit an application to the MTA. The application must contain a technical brief and project plan for the commercialization of the technology developed or proposed for development by the business and any other information requested by the MTA. If the MTA staff reviewing the application determines that an application should be reviewed by the Seed Fund Investment Board appointed by the MTA Board of Directors, the application shall be forwarded to the Seed Fund Investment Board. If the Seed Fund Investment Board approves the application, the MTA shall negotiate a contract with the business regarding any assistance provided to the business under the program, the expenditure of assistance provided to the business, repayment of assistance by the business, and any other matters to which the parties may agree. Any such contract must provide for at least the following: (i) that any assistance provided to the business will be on a reimbursement basis in which the business will expend funds according to the terms of the contract and submit invoices, receipts and other applicable documentation and information to the MTA for reimbursement; (ii) that no funds may be expended or used for patent prosecution, reorganization of the business, or payment of any existing debt of the business outstanding or otherwise incurred at the time the contract is entered into; (iii) that no funds may be expended to reimburse expenses for work conducted or services provided by the business, a university or a third party consultant if those expenses were incurred before the term of the contract; (iv) that at least fifty-one percent (51%) of the funds received by the business must be expended with a Mississippi university, college and/or community/junior college with which the business has a contract for research and development or technology development work or services; (v) that the MTA will pay not more than ten percent (10%) of overhead expenses for the business and/or the university, college and/or community/junior college; (vi) that the business will provide matching funding of One Dollar ($1.00) for every One Dollar ($1.00) of assistance, with at least fifty percent (50%) of the match being in cash and the remaining amount being from in-kind services, all of which must be documented by time sheets, payroll receipts, invoices and other documentation or information required by the MTA; and (vii) that the business receiving assistance will retain ownership of any technology developed by the business before the start of the project for which assistance is received, and that rights to new intellectual property developed as a result of the project will be subject to mutually agreed upon terms and conditions of the collaborative research agreement executed by the business and the university, college and/or community/junior college before the start of the project. Assistance received by a business and not expended for purposes required in the contract between the business and the MTA may be expended for hiring third party consultants to assist the business, working capital, marketing, prototype development and equipment. The amount of assistance that a business may receive under the program shall not exceed One Hundred Thousand Dollars ($100,000.00) in any one (1) year and shall not exceed Two Hundred Thousand Dollars ($200,000.00) in the aggregate.

(c) Except as otherwise provided in this paragraph, a business receiving assistance under the program shall be required to repay the assistance in the manner provided in this paragraph. Repayment shall be made through the use of a convertible note in which the business will repay one hundred percent (100%) of the amount of assistance received if such repayment is made within thirty-six (36) months from the date the assistance is received, with the amount to be repaid by the business increasing at a rate determined by the parties in the contract up to an amount not to exceed two hundred percent (200%) of the amount of assistance if such repayment is made later than thirty-six (36) months from the date the assistance is received but not later than sixty (60) months from the date the assistance is received. The MTA shall have the option of converting the amount of assistance awarded to the business into common stock of the business or into a royalty in the gross sales of the business. Amounts received as repayments shall be deposited into the special fund created in subsection (3) of this section. Notwithstanding the preceding provisions of this paragraph, if the business receiving assistance fails to meet certain financial performance levels established in the contract between the business and the MTA and the contract does not activate any repayment provisions, then the MTA will deem the assistance provided to be a loss and the business receiving assistance shall not be required to repay the assistance received.

(3) There is created in the State Treasury a special fund, to be designated as the "Research and Development Program Fund," which shall consist of funds appropriated or otherwise made available by the Legislature. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund. Monies in the fund shall be disbursed, in the discretion of the Mississippi Development Authority, to provide funds to the MTA for the purposes described in this section, or for the purposes described in Sections 57-103-3, 57-103-5, 57-103-7 and/or 57-103-9 if the MTA determines that the funds are not needed for the purposes described in this section.

SOURCES: Laws, 2007, ch. 459, § 1, eff from and after July 1, 2007.

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

§ 57-103-3. Mississippi New Technology Business Program-Level 1 established; eligibility for assistance; application; provisions of contract for assistance, expenditure of assistance, etc.; repayment of assistance; creation of Mississippi New Technology Business Program-Level 1 Fund.

(1) There is established under the direction of the Mississippi Technology Alliance ("MTA") a program to be known as the "Mississippi New Technology Business Program-Level 1" for the purpose of making assistance available to

provide working capital to support the initial capitalization of technology based businesses in Mississippi.

(2)(a) In order to be eligible for assistance under the program, a business must: (i) have its principal place of business based in Mississippi, and be a startup business, (ii) have rights to the intellectual property supporting the venture opportunity for which assistance is requested, (iii) demonstrate compelling evidence for rapid growth and high performance potential, (iv) be invited by the MTA to apply for assistance based upon an agreeable scope of work.

(b) Any business desiring to participate in the program must submit an application to the MTA. The application must contain a description of the purposes for which the assistance is requested, the amount of assistance requested and any other information requested by the MTA. If the MTA staff reviewing the application determines that an application should be reviewed by the Seed Fund Investment Board appointed by the MTA Board of Directors, the application shall be forwarded to the Seed Fund Investment Board. If the Seed Fund Investment Board approves the application, the MTA shall negotiate a contract with the business regarding any assistance provided to the business under the program, the expenditure of the assistance provided to the business, and any other matters to which the parties may agree. Any such contract must provide for at least the following: (i) that any assistance provided to the business will be on a reimbursement basis in which the business will expend funds according to the terms of the contract and submit invoices, receipts and other applicable documentation and information to the MTA for reimbursement; (ii) that no funds may be expended or used for patent prosecution, reorganization of the business, or payment of any existing debt of the business outstanding or otherwise incurred at the time the contract is entered into; (iii) that no funds may be expended to reimburse expenses for work conducted or services provided by the business, a university or a third party consultant if those expenses were incurred before the term of the contract; (iv) that the business receiving assistance will retain ownership of any technology developed by the business regardless of whether the technology is developed before or after the receipt of assistance; and (v) that the business will provide matching funding of One Dollar ($1.00) for every One Dollar ($1.00) of assistance, with at least twenty-five percent (25%) of the match being in cash and the remaining amount being from in-kind services, all of which must be documented by time sheets, payroll receipts, invoices and other documentation or information required by the MTA. Assistance received by a business may be expended for hiring third party consultants to assist the business and for equipment. The amount of assistance that a business may receive under the program shall not exceed Ten Thousand Dollars ($10,000.00) and any award of assistance shall be made on a one time basis.

(c) Except as otherwise provided in this paragraph, a business receiving assistance under the program shall be required to repay the assistance in the manner provided in this paragraph. Repayment shall be made through the use of a nonrecourse loan in which the business will repay the loan upon the successful commercialization of the product or service. The business will repay one hundred percent (100%) of the amount of assistance received if such repayment is made within thirty-six (36) months from the date the assistance is received, with the amount to be repaid by the business increasing at a rate determined by the parties in the contract up to an amount not to exceed two hundred percent (200%) of the amount of assistance if such repayment is made later than thirty-six (36) months from the date the assistance is received but not later than sixty (60) months from the date the assistance is received. Amounts received as repayments shall be deposited into the special fund created in subsection (3) of this section. Notwithstanding the preceding provisions of this paragraph, if the business receiving assistance fails to meet certain financial performance levels established in the contract between the business and the MTA and the contract does not activate any repayment provisions, then the MTA will deem the assistance provided to be a loss and the business receiving assistance shall not be required to repay the assistance received.

(3) There is created in the State Treasury a special fund, to be designated as the "Mississippi New Technology Business Program-Level 1 Fund," which shall consist of funds appropriated or otherwise made available by the Legislature. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund. Monies in the fund shall be disbursed, in the discretion of the Mississippi Development Authority, to provide funds to the MTA for the purposes described in this section, or for the purposes described in Sections 57-103-1, 57-103-5, 57-103-7 and/or 57-103-9 if the MTA determines that the funds are not needed for the purposes described in this section.

SOURCES: Laws, 2007, ch. 459, § 2, eff from and after July 1, 2007.

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

§ 57-103-5. Mississippi New Technology Business Program-Level 2 established; eligibility for assistance; application; provisions of contract for assistance, expenditure of assistance, etc.; repayment of assistance; creation of Mississippi New Technology Business Program-Level 2 Fund.

(1) There is established under the direction of the Mississippi Technology Alliance ("MTA") a program to be known as the "Mississippi New Technology Business Program-Level 2" for the purpose of making assistance available to provide working capital to support the continued capitalization of technology based businesses in Mississippi.

(2)(a) In order to be eligible for assistance under the program, a business must: (i) have its principal place of business based in Mississippi, and be a startup, seed stage or early stage business, (ii) have rights to the intellectual property supporting the venture opportunity for which assistance is requested, (iii) have a business plan demonstrating economic feasibility; (iv) have an accredited investor match, (v) have formed or have agreed to form a collaborative agreement with a Mississippi institution of higher learning, (vi) be invited by the MTA to apply for assistance based upon an acceptable commercialization strategy, and (vii) be willing to execute a performance level based agreement with the MTA.

(b) Any business desiring to participate in the program must submit an application to the MTA. The application must contain a description of the purposes for which the assistance is requested, the amount of assistance requested and any other information requested by the MTA. If the MTA staff reviewing the application determines that an application should be reviewed by the Seed Fund Investment Board appointed by the MTA Board of Directors, the application shall be forwarded to the Seed Fund Investment Board. If the Seed Fund Investment Board approves the application, the MTA shall negotiate a contract with the business regarding any assistance provided to the business under the program, the expenditure of the assistance provided to the business, and any other matters to which the parties may agree. Any such contract must provide for at least the following: (i) that any assistance provided to the business will be on a reimbursement basis in which the business will expend funds according to the terms of the contract and submit invoices, receipts and other applicable documentation and information to the MTA for reimbursement; (ii) that no funds may be expended or used for patent prosecution, reorganization of the business, or payment of any existing debt of the business outstanding or otherwise incurred at the time the contract is entered into; (iii) that no funds may be expended to reimburse expenses for work conducted or services provided by the business, a university or a third party consultant if those expenses were incurred before the term of the contract; (iv) that the business receiving assistance will retain ownership of any technology developed by the business regardless of whether the technology is developed before or after the receipt of assistance; and (v) that the business will provide matching funding of One Dollar ($1.00) for every One Dollar ($1.00) of assistance, with at least fifty percent (50%) of the match being from an accredited investor or strategic investment partner, as determined by the MTA, and the remaining amount being from in-kind services, all of which must be documented by time sheets, payroll receipts, invoices and other documentation or information required by the MTA. Assistance received by a business may be expended for hiring third party consultants to assist the business and for equipment. The amount of assistance that a business may receive under the program shall not exceed One Hundred Thousand Dollars ($100,000.00) in any one (1) year and shall not exceed Two Hundred Thousand Dollars ($200,000.00) in the aggregate.

(c) Except as otherwise provided in this paragraph, a business receiving assistance under the program shall be required to repay the assistance in the manner provided in this paragraph. Repayment shall be made through the use of a convertible note in which the business will repay one hundred percent (100%) of the amount of assistance received if such repayment is made within thirty-six (36) months from the date the assistance is received, with the amount to be repaid by the business increasing at a rate determined by the parties in the contract up to an amount not to exceed two hundred percent (200%) of the amount of assistance if such repayment is made later than thirty-six (36) months from the date the assistance is received but not later than sixty (60) months from the date the assistance is received. The MTA shall have the option of converting the amount of assistance awarded to the business into common stock of the business or into a royalty in the gross sales of the business. Amounts received as repayments shall be deposited into the special fund created in subsection (3) of this section. Notwithstanding the preceding provisions of this paragraph, if the business receiving assistance fails to meet certain financial performance levels established in the contract between the business and the MTA and the contract does not activate any repayment provisions, then the MTA will deem the assistance provided to be a loss and the business receiving assistance shall not be required to repay the assistance received.

(3) There is created in the State Treasury a special fund, to be designated as the "Mississippi New Technology Business Program-Level 2 Fund," which shall consist of funds appropriated or otherwise made available by the Legislature. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund. Monies in the fund shall be disbursed, in the discretion of the Mississippi Development Authority, to provide funds to the MTA for the purposes described in this section, or for the purposes described in Sections 57-103-1, 57-103-3, 57-103-7 and/or 57-103-9 if the MTA determines that the funds are not needed for the purposes described in this section.

SOURCES: Laws, 2007, ch. 459, § 3, eff from and after July 1, 2007.

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

§ 57-103-7. Rural Innovation Program-Level 1 established; eligibility for assistance; application; provisions of contract for assistance, expenditure of assistance, etc.; repayment of assistance; creation of Rural Innovation Program-Level 1 Fund.

(1) There is established under the direction of the Mississippi Technology Alliance ("MTA") a program to be known as the "Rural Innovation Program-Level 1" for the purpose of making assistance available to provide working capital to support the initial capitalization of technology based businesses in rural Mississippi.

(2)(a) In order to be eligible for assistance under the program, a business must: (i) have its principal place of business based in a rural county in Mississippi, (ii) produce or provide a product and/or service that is science or technology related, (iii) have fewer than one hundred fifty (150) employees, and (iv) have completed its product and/or service development planning. For the purposes of this paragraph, a "rural county" shall be a county designated as such by the MTA.

(b) Any business desiring to participate in the program must submit an application to the MTA. The application must contain a description of the purposes for which the assistance is requested, the amount of assistance requested and any other information requested by the MTA. If the MTA staff reviewing the application determines that an application should be reviewed by the Seed Fund Investment Board appointed by the MTA Board of Directors, the application shall be forwarded to the Seed Fund Investment Board. If the Seed Fund Investment Board approves the application, the MTA shall negotiate a contract with the business regarding any assistance provided to the business under the program, the expenditure of the assistance provided to the business, and any other matters to which the parties may agree. Any such contract must provide for at least the following: (i) that any assistance provided to the business will be on a reimbursement basis in which the business will expend funds according to the terms of the contract and submit invoices, receipts and other applicable documentation and information to the MTA for reimbursement; (ii) that no funds may be expended or used for patent prosecution, reorganization of the business, or payment of any existing debt of the business outstanding or otherwise incurred at the time the contract is entered into; (iii) that no funds may be expended to reimburse expenses for work conducted or services provided by the business, a university or a third party consultant if those expenses were incurred before the term of the contract; (iv) that the business receiving assistance will retain ownership of any technology developed by the business regardless of whether the technology is developed before or after the receipt of assistance; and (v) that the business will provide matching funding of One Dollar ($1.00) for every One Dollar ($1.00) of assistance, with at least twenty-five percent (25%) of the match being in cash and the remaining amount being from in-kind services, all of which must be documented by time sheets, payroll receipts, invoices and other documentation or information required by the MTA. Assistance received by a business may be expended for hiring third party consultants to assist the business and for equipment. The amount of assistance that a business may receive under the program shall not exceed Ten Thousand Dollars ($10,000.00) and any award of assistance shall be made on a one time basis.

(c) Except as otherwise provided in this paragraph, a business receiving assistance under the program shall be required to repay the assistance in the manner provided in this paragraph. Repayment shall be made through the use of a nonrecourse loan in which the business will repay the loan upon the successful commercialization of the product or service. The business will repay one hundred percent (100%) of the amount of assistance received if such repayment is made within thirty-six (36) months from the date the assistance is received, with the amount to be repaid by the business increasing at a rate determined by the parties in the contract up to an amount not to exceed two hundred percent (200%) of the amount of assistance if such repayment is made later than thirty-six (36) months from the date the assistance is received but not later than sixty (60) months from the date the assistance is received. Amounts received as repayments shall be deposited into the special fund created in subsection (3) of this section. Notwithstanding the preceding provisions of this paragraph, if the business receiving assistance fails to meet certain financial performance levels established in the contract between the business and the MTA and the contract does not activate any repayment provisions, then the MTA will deem the assistance provided to be a loss and the business receiving assistance shall not be required to repay the assistance received.

(3) There is created in the State Treasury a special fund, to be designated as the "Rural Innovation Program-Level 1 Fund," which shall consist of funds appropriated or otherwise made available by the Legislature. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund. Monies in the fund shall be disbursed, in the discretion of the Mississippi Development Authority, to provide funds to the MTA for the purposes described in this section, or for the purposes described in Sections 57-103-1, 57-103-3, 57-103-5 and/or 57-103-9 if the MTA determines that the funds are not needed for the purposes described in this section.

SOURCES: Laws, 2007, ch. 459, § 4, eff from and after July 1, 2007.

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

§ 57-103-9. Rural Innovation Program-Level 2 established; eligibility for assistance; application; provisions of contract for assistance, expenditure of assistance, etc.; repayment of assistance; creation of Rural Innovation Program-Level 2 Fund.

(1) There is established under the direction of the Mississippi Technology Alliance ("MTA") a program to be known as the "Rural Innovation Program-Level 2" for the purpose of making assistance available to provide working capital to support the continued capitalization of technology based businesses in rural Mississippi.

(2)(a) In order to be eligible for assistance under the program, a business must: (i) have its principal place of business based in a rural county in Mississippi, (ii) produce or provide a product and/or service that is science or technology related, (iii) have fewer than one hundred fifty (150) employees, and (iv) have completed its product and/or service development planning. For the purposes of this paragraph, a "rural county" shall be a county designated as such by the MTA.

(b) Any business desiring to participate in the program must submit an application to the MTA. The application must contain a description of the purposes for which the assistance is requested, the amount of assistance requested and any other information requested by the MTA. If the MTA staff reviewing the application determines that an application should be reviewed by the Seed Fund Investment Board appointed by the MTA Board of Directors, the application shall be forwarded to the Seed Fund Investment Board. If the Seed Fund Investment Board approves the application, the MTA shall negotiate a contract with the business regarding any assistance provided to the business under the program, the expenditure of the assistance provided to the business, and any other matters to which the parties may agree. Any such contract must provide for at least the following: (i) that any assistance provided to the business will be on a reimbursement basis in which the business will expend funds according to the terms of the contract and submit invoices, receipts and other applicable documentation and information to the MTA for reimbursement; (ii) that no funds may be expended or used for patent prosecution, reorganization of the business, or payment of any existing debt of the business outstanding or otherwise incurred at the time the contract is entered into; (iii) that no funds may be expended to reimburse expenses for work conducted or services provided by the business, a university or a third party consultant if those expenses were incurred before the term of the contract; (iv) that the business receiving assistance will retain ownership of any technology developed by the business regardless of whether the technology is developed before or after the receipt of assistance; and (v) that the business will provide matching funding of One Dollar ($1.00) for every One Dollar ($1.00) of assistance, with at least fifty percent (50%) of the match being from an accredited investor or strategic investment partner, as determined by the MTA, and the remaining amount being from in-kind services, all of which must be documented by time sheets, payroll receipts, invoices and other documentation or information required by the MTA. Assistance received by a business may be expended for hiring third party consultants to assist the business and for equipment. The amount of assistance that a business may receive under the program shall not exceed One Hundred Thousand Dollars ($100,000.00) in any one (1) year and shall not exceed Two Hundred Thousand Dollars ($200,000.00) in the aggregate.

(c) Except as otherwise provided in this paragraph, a business receiving assistance under the program shall be required to repay the assistance in the manner provided in this paragraph. Repayment shall be made through the use of a convertible note in which the business will repay one hundred percent (100%) of the amount of assistance received if such repayment is made within thirty-six (36) months from the date the assistance is received, with the amount to be repaid by the business increasing at a rate determined by the parties in the contract up to an amount not to exceed two hundred percent (200%) of the amount of assistance if such repayment is made later than thirty-six (36) months from the date the assistance is received but not later than sixty (60) months from the date the assistance is received. The MTA shall have the option of converting the amount of assistance awarded to the business into common stock of the business or into a royalty in the gross sales of the business. Amounts received as repayments shall be deposited into the special fund created in subsection (3) of this section. Notwithstanding the preceding provisions of this paragraph, if the business receiving assistance fails to meet certain financial performance levels established in the contract between the business and the MTA and the contract does not activate any repayment provisions, then the MTA will deem the assistance provided to be a loss and the business receiving assistance shall not be required to repay the assistance received.

(3) There is created in the State Treasury a special fund, to be designated as the "Rural Innovation Program-Level 2 Fund," which shall consist of funds appropriated or otherwise made available by the Legislature. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund. Monies in the fund shall be disbursed, in the discretion of the Mississippi Development Authority, to provide funds to the MTA for the purposes described in this section, or for the purposes described in Sections 57-103-1, 57-103-3, 57-103-5 and/or 57-103-7 if the MTA determines that the funds are not needed for the purposes described in this section.

SOURCES: Laws, 2007, ch. 459, § 5, eff from and after July 1, 2007.

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

§ 57-103-11. Mississippi Technology Alliance Administration Fund created; purpose; disbursement of monies; Mississippi Technology Alliance to develop performance monitoring system and make annual performance report before receiving funds.

(1) There is created in the State Treasury a special fund, to be designated as the "Mississippi Technology Alliance Administration Fund," which shall consist of funds appropriated or otherwise made available by the Legislature. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund. Monies in the fund shall be disbursed, in the discretion of the Mississippi Development Authority, to provide funds to defray the costs incurred by the Mississippi Technology Alliance in the implementation and administration of the programs created in Sections 57-103-1 through 57-103-9.

(2)(a) Before January 1, 2010, the Mississippi Technology Alliance shall devise and implement a performance monitoring system consisting of the following:

(i) Objectives and benchmarks for each program;

(ii) Performance measures for each program; and

(iii) A definition of the return on investment that is appropriate and accurate for every program.

(b) From and after January 1, 2011, the Mississippi Technology Alliance shall report annually to the Mississippi Development Authority and the Legislature as to its success in meeting its program objectives and performance measures required by this subsection (2).

(c) The Mississippi Development Authority may not disburse any funds to the Mississippi Technology Alliance, unless it has met the reporting requirements of this subsection (2).

SOURCES: Laws, 2007, ch. 459, § 6; Laws, 2009, ch. 406, § 1, eff from and after July 1, 2009.

Cross References — Mississippi Development Authority generally, see §§ 57-1-1 et seq.

CHAPTER 105

Qualified Equity Investment Tax Credits and Public Entity Financing Arrangements

Sec.
57-105-1. Income tax and insurance premium tax credits for taxpayers holding certain qualified equity investments; creation of public benefit corporations for financing arrangements regarding public property and facilities.

§ 57-105-1. Income tax and insurance premium tax credits for taxpayers holding certain qualified equity investments; creation of public benefit corporations for financing arrangements regarding public property and facilities.

(1) As used in this section:

(a) "Adjusted purchase price" means the investment in the qualified community development entity for the qualified equity investment, substantially all of the proceeds of which are used to make qualified low-income community investments in Mississippi.

For the purposes of calculating the amount of qualified low-income community investments held by a qualified community development entity, an investment will be considered held by a qualified community development entity even if the investment has been sold or repaid; provided that the qualified community development entity reinvests an amount equal to the capital returned to or recovered by the qualified community development entity from the original investment, exclusive of any profits realized, in another qualified low-income community investment in Mississippi, including any federal Indian reservation located within the geographical boundary of Mississippi within twelve (12) months of the receipt of such capital. A qualified community development entity will not be required to reinvest capital returned from the qualified low-income community investments after the sixth anniversary of the issuance of the qualified equity investment, the proceeds of which were used to make the qualified low-income community investment, and the qualified low-income community investment will be considered held by the qualified community development entity through the seventh anniversary of the qualified equity investment's issuance.

(b) "Applicable percentage" means:

(i) For any equity investment issued prior to July 1, 2008, four percent (4%) for each of the second through seventh credit allowance dates for purposes of the taxes imposed by Section 27-7-5 and one and one-third percent (1-⅓%) for each of the second through seventh credit allowance dates for purposes of the taxes imposed by Sections 27-15-103, 27-15-109 and 27-15-123.

(ii) For any equity investment issued from and after July 1, 2008, eight percent (8%) for each of the first through third credit allowance dates for purposes of the taxes imposed by Section 27-7-5 or the taxes imposed by Sections 27-15-103, 27-15-109 and 27-15-123.

(c) "Credit allowance date" means, with respect to any qualified equity investment:

(i) The later of:

1. The date upon which the qualified equity investment is initially made; or

2. The date upon which the Mississippi Development Authority issues a certificate under subsection (4) of this section; and

(ii)1. For equity investments issued prior to July 1, 2008, each of the subsequent six (6) anniversary dates of the date upon which the investment is initially made; or

2. For equity investments issued from and after July 1, 2008, each of the subsequent two (2) anniversary dates of the date determined as provided for in subparagraph (i) of this paragraph.

(d) "Qualified community development entity" shall have the meaning ascribed to such term in Section 45D of the Internal Revenue Code of 1986, as amended, if the entity has entered into an Allocation Agreement with the Community Development Financial Institutions Fund of the United States Department of the Treasury with respect to credits authorized by Section 45D of the Internal Revenue Code of 1986, as amended.

(e) "Qualified active low-income community business" shall have the meaning ascribed to such term in Section 45D of the Internal Revenue Code of 1986, as amended.

(f) "Qualified equity investment" shall have the meaning ascribed to such term in Section 45D of the Internal Revenue Code of 1986, as amended. The investment does not have to be designated as a qualified equity investment by the Community Development Financial Institutions Fund of the United States Treasury to be considered a qualified equity investment under this section but otherwise must meet the definition under the Internal Revenue Code. In addition to meeting the definition in Section 45D of the Internal Revenue Code such investment must also:

(i) Have been acquired after January 1, 2007, at its original issuance solely in exchange for cash; and

(ii) Have been allocated by the Mississippi Development Authority.

For the purposes of this section, such investment shall be deemed a qualified equity investment on the later of the date such qualified equity investment is made or the date on which the Mississippi Development Authority issues a certificate under subsection (4) of this section allocating credits based on such investment.

(g) "Qualified low-income community investment" shall have the meaning ascribed to such term in Section 45D of the Internal Revenue Code of 1986, as amended; provided, however, that the maximum amount of qualified low-income community investments issued for a single qualified active low-income community business, on an aggregate basis with all of its affiliates, that may be included for purposes of allocating any credits under this section shall not exceed Ten Million Dollars ($10,000,000.00), in the aggregate, whether issued by one (1) or several qualified community development entities.

(2) A taxpayer that holds a qualified equity investment on the credit allowance date shall be entitled to a credit applicable against the taxes imposed by Sections 27-7-5, 27-15-103, 27-15-109 and 27-15-123 during the taxable year that includes the credit allowance date. The amount of the credit shall be equal to the applicable percentage of the adjusted purchase price paid to the qualified community development entity for the qualified equity investment. The amount of the credit that may be utilized in any one (1) tax year shall be limited to an amount not greater than the total tax liability of the taxpayer for the taxes imposed by the above-referenced sections. The credit shall not be refundable or transferable. Any unused portion of the credit may be carried forward for seven (7) taxable years beyond the credit allowance date on which the credit was earned. The maximum aggregate amount of qualified equity investments that may be allocated by the Mississippi Development Authority may not exceed an amount that would result in taxpayers claiming in any one (1) state fiscal year credits in excess of Fifteen Million Dollars ($15,000,000.00), exclusive of credits that might be carried forward from previous taxable years; however, a maximum of one-third (⅓) of this amount may be allocated as credits for taxes imposed by Sections 27-15-103, 27-15-109 and 27-15-123. Any taxpayer claiming a credit under this section against the taxes imposed by Sections 27-7-5, 27-15-103, 27-15-109 and 27-15-123 shall not be required to pay any additional tax under Section 27-15-123 as a result of claiming such credit. The Mississippi Development Authority shall allocate credits within this limit as provided for in subsection (4) of this section.

(3) Tax credits authorized by this section that are earned by a partnership, limited liability company, S corporation or other similar pass-through entity, shall be allocated among all partners, members or shareholders, respectively, either in proportion to their ownership interest in such entity or as the partners, members or shareholders mutually agree as provided in an executed document. Such allocation shall be made each taxable year of such pass-through entity which contains a credit allowance date.

(4) The qualified community development entity shall apply for credits with the Mississippi Development Authority on forms prescribed by the Mississippi Development Authority. The qualified community development entity must pay an application fee of One Thousand Dollars ($1,000.00) to the Mississippi Development Authority at the time the application is submitted. In the application the qualified community development entity shall certify to the Mississippi Development Authority the dollar amount of the qualified equity investments made or to be made in this state, including in any federal Indian reservation located within the state's geographical boundary, during the first twelve-month period following the initial credit allowance date. The Mississippi Development Authority shall allocate credits based on the dollar amount of qualified equity investments as certified in the application. Once the Mississippi Development Authority has allocated credits to a qualified com-

munity development entity, if the corresponding qualified equity investment has not been issued as of the date of such allocation, then the corresponding qualified equity investment must be issued not later than one hundred twenty (120) days from the date of such allocation. If the qualified equity investment is not issued within such time period, the allocation shall be cancelled and returned to the Mississippi Development Authority for reallocation. Upon final documentation of the qualified low-income community investments, if the actual dollar amount of the investments is lower than the amount estimated, the Mississippi Development Authority shall adjust the tax credit allowed under this section. The Department of Revenue may recapture all of the credit allowed under this section if:

(a) Any amount of federal tax credits available with respect to a qualified equity investment that is eligible for a tax credit under this section is recaptured under Section 45D of the Internal Revenue Code of 1986, as amended; or

(b) The qualified community development entity redeems or makes any principal repayment with respect to a qualified equity investment prior to the seventh anniversary of the issuance of the qualified equity investment; or

(c) The qualified community development entity fails to maintain at least eighty-five percent (85%) of the proceeds of the qualified equity investment in qualified low-income community investments in Mississippi at any time prior to the seventh anniversary of the issuance of the qualified equity investment.

Any credits that are subject to recapture under this subsection shall be recaptured from the taxpayer that actually claimed the credit.

The Mississippi Development Authority shall not allocate any credits under this section after January 1, 2018.

(5) Each qualified community development entity that receives qualified equity investments to make qualified low-income community investments in Mississippi must annually report to the Mississippi Development Authority the North American Industry Classification System Code, the county, the dollars invested, the number of jobs assisted and the number of jobs assisted with wages over one hundred percent (100%) of the federal poverty level for a family of four (4) of each qualified low-income community investment.

(6) The Mississippi Development Authority shall file an annual report on all qualified low-income community investments with the Governor, the Clerk of the House of Representatives, the Secretary of the Senate and the Secretary of State describing the North American Industry Classification System Code, the county, the dollars invested, the number of jobs assisted and the number of jobs assisted with wages over one hundred percent (100%) of the federal poverty level for a family of four (4) of each qualified low-income community investment. The annual report will be posted on the Mississippi Development Authority's Internet website.

(7)(a) The purpose of this subsection is to authorize the creation and establishment of public benefit corporations for financing arrangements regarding public property and facilities.

(b) As used in this subsection:

(i) "New Markets Tax Credit transaction" means any financing transaction which utilizes either this section or Section 45D of the Internal Revenue Code of 1986, as amended.

(ii) "Public benefit corporation" means a nonprofit corporation formed or designated by a public entity to carry out the purposes of this subsection.

(iii) "Public entity or public entities" includes utility districts, regional solid waste authorities, regional utility authorities, community hospitals, regional airport authorities, municipal airport authorities, community and junior colleges, educational building corporations established by or on behalf of the state institutions of higher learning, school districts, planning and development districts, county economic development districts, urban renewal agencies, any other regional or local economic development authority, agency or governmental entity, and any other regional or local industrial development authority, agency or governmental entity.

(iv) "Public property or facilities" means any property or facilities owned or leased by a public entity or public benefit corporation.

(c) Notwithstanding any other provision of law to the contrary, public entities are authorized pursuant to this subsection to create one or more public benefit corporations or designate an existing corporation as a public benefit corporation for the purpose of entering into financing agreements and engaging in New Markets Tax Credit transactions, which shall include, without limitation, arrangements to plan, acquire, renovate, construct, lease, sublease, manage, operate and/or improve new or existing public property or facilities located within the boundaries or service area of the public entity. Any financing arrangement authorized under this subsection shall further any purpose of the public entity and may include a term of up to fifty (50) years.

(d) Notwithstanding any other provision of law to the contrary and in order to facilitate the acquisition, renovation, construction, leasing, subleasing, management, operating and/or improvement of new or existing public property or facilities to further any purpose of a public entity, public entities are authorized to enter into financing arrangements in order to transfer public property or facilities to and/or from public benefit corporations, including, without limitation, sales, sale-leasebacks, leases and lease-leasebacks, provided such transfer is related to any New Markets Tax Credit transaction furthering any purpose of the public entity. Any such transfer under this paragraph (d) and the public property or facilities transferred in connection therewith shall be exempted from any limitation or requirements with respect to leasing, acquiring, and/or constructing public property or facilities.

(e) With respect to a New Markets Tax Credit transaction, public entities and public benefit corporations are authorized to enter into financing arrangements with any governmental, nonprofit or for-profit entity in order to leverage funds not otherwise available to public entities for the acquisition, construction and/or renovation of properties transferred to such public benefit corporations. The use of any funds loaned by or contributed by a public benefit corporation or borrowed by or otherwise made available to a public benefit corporation in such financing arrangement shall be dedicated solely to (i) the development of new properties or facilities and/or the renovation of existing properties or facilities or operation of properties or facilities, and/or (ii) the payment of costs and expenditures related to any such financing arrangements including, but not limited to, funding any reserves required in connection therewith, the repayment of any indebtedness incurred in connection therewith, and the payment of fees and expenses incurred in connection with the closing, administration, accounting and/or compliance with respect to the New Markets Tax Credit transaction.

(f) A public benefit corporation created pursuant to this subsection shall not be a political subdivision of the state but shall be a nonprofit corporation organized and governed under the provisions of the laws of this state and shall be a special purpose corporation established to facilitate New Markets Tax Credit transactions consistent with the requirements of this section.

(g) Neither this subsection nor anything herein contained is or shall be construed as a restriction or limitation upon any powers which the public entity or public benefit corporation might otherwise have under any laws of this state, and this subsection is cumulative to any such powers. This subsection does and shall be construed to provide a complete additional and alternative method for the doing of the things authorized thereby and shall be regarded as supplemental and additional to powers conferred by other laws.

(8) The Mississippi Development Authority shall promulgate rules and regulations to implement the provisions of this section.

SOURCES: Laws, 2007, ch. 528, § 1; Laws, 2008, ch. 456, § 1; Laws, 2009, ch. 456, § 1; Laws, 2012, ch. 446, § 1; Laws, 2013, ch. 506, § 1; Laws, 2014, ch. 364, § 1, eff from and after Jan. 1, 2014.

Editor's Note — Section 27-3-4 provides that the terms "'Mississippi State Tax Commission,' 'State Tax Commission,' 'Tax Commission' and 'commission' appearing in the laws of this state in connection with the performance of the duties and functions by the Mississippi State Tax Commission, the State Tax Commission or Tax Commission shall mean the Department of Revenue."

Amendment Notes — The 2013 amendment rewrote (1)(c)(i); added language beginning "(or in the case of an investment" at the end of (1)(c)(i) and (1)(c)(ii)2; added the last paragraph of (1)(f); and deleted "anticipated" preceding "dollar amount" in the third and fourth sentences and rewrote the fifth sentence of (4).

The 2014 amendment, rewrote (1)(c)(i), which formerly read: "The date upon which the investment is initially made (or in the case of an investment made prior to the allocation of credits based on such investment, the date on which the Mississippi Development Authority issues a certificate under subsection (4) of this section allocating credits based on such investment); and"; in (1)(c)(ii)2., substituted "determined as provided for in subparagraph (i) of this paragraph" for "upon which the investment is initially made (or in the case of an investment made prior to the allocation of credits based on such investment, the date on which the Mississippi Development Authority issues a certificate under subsection (4) of this section allocating credits based on such investment)"; in (2), deleted "of the qualified equity investment" following "on the credit allowance date" in the first sentence; in (4), substituted "one hundred twenty (120)" for "sixty (60)" in the fifth sentence; in the last paragraph of (4)(c), substituted "018" for "2014"; in (7)(b)(iii), inserted "municipal airport authorities,"; and made minor stylistic changes.

Cross References — State agencies and public officials providing information about the agency or office to the public on a website are required to regularly review and update that information, see § 25-1-117.

Department of Revenue generally, see §§ 27-3-1 et seq.

Mississippi Development Authority, see §§ 57-1-1 et seq.

Federal Aspects — Section 45D of the Internal Revenue Code, see 26 USCS § 45D.

CHAPTER 107

Mississippi Workforce Training Projects

Article 1. Delta Area Workforce Training Project [Repealed effective July 1, 2016] 57-107-1
Article 3. Southwest Mississippi Area Workforce Training Project [Repealed]

ARTICLE 1.

DELTA AREA WORKFORCE TRAINING PROJECT [REPEALED EFFECTIVE JULY 1, 2016].

SEC.
57-107-1. Mississippi Delta Area Workforce Training Project created; pilot program goals [Repealed effective July 1, 2016].
57-107-3. Delta workforce coordinator for job retention and expansion to administer pilot program; coordinator's duties; Delta region workforce team; funding of office [Repealed effective July 1, 2016].
57-107-5. Delta Workforce Cabinet creation, composition; cabinet to be representative of all areas of Delta region; review of ongoing work of office of workforce coordinator [Repealed effective July 1, 2016].
57-107-7. Report on status of Mississippi Delta Area Workforce Training Project [Repealed effective July 1, 2016].

§ 57-107-1. Mississippi Delta Area Workforce Training Project created; pilot program goals [Repealed effective July 1, 2016].

There is created the Mississippi Delta Area Workforce Training Project, a pilot program aimed at implementing coordinated strategies for improving the retention and expansion of jobs in the Mississippi Delta region. The goals of the pilot program shall include reducing or eliminating the complexity of access to workforce assistance programs for existing and prospective employers and to create a one-stop accountable, accessible and reliable means to join workforce needs with workforce services in the Delta.

SOURCES: Laws, 2009, ch. 471, § 1; reenacted without change, Laws, 2011, ch. 480, § 35, eff from and after passage (approved Apr. 6, 2011.)

Editor's Note — Laws of 2009, ch. 471, § 9, as amended by Laws of 2011, ch. 480, § 39, provides:

"SECTION 9. Sections 1 through 4 of this act [codified as §§ 57-107-1 through 57-107-7] shall stand repealed on July 1, 2016, and the remainder of this act [codified as §§ 57-107-101 through 57-107-107] shall stand repealed on July 1, 2011."

§ 57-107-3. Delta workforce coordinator for job retention and expansion to administer pilot program; coordinator's duties; Delta region workforce team; funding of office [Repealed effective July 1, 2016].

(1) The pilot program shall be administered by a Delta Workforce Coordinator for Job Retention and Expansion, whose office shall be located centrally in the Mississippi Delta region. The Delta Workforce Coordinator shall be appointed by the Delta Workforce Cabinet created under Section 57-107-5. Subject to the availability of funding, the Delta Workforce Coordinator may employ such support and clerical staff as may be necessary to accomplish the goals of the Mississippi Delta Area Workforce Training Project.

(2) The following are the primary duties of the Delta Workforce Coordinator:

(a) To arrange and conduct meetings with existing employers in the Delta region and prospective employers considering locating in the Delta region in order to identify employment training needs, opportunities, problems and possible solutions to such problems;

(b) To identify employer needs and challenges and to pursue opportunities in a coordinated, strategic manner for job retention and expansion through meeting individually and jointly with the Delta region's workforce team, including:

(i) Local and regional economic development entities and other MDA departments;

(ii) The Board of the Delta Workforce Investment Area;

(iii) The Mississippi Department of Employment Security, Office of the Governor, and local Workforce Investment Network job centers; and

(iv) Representatives of Coahoma Community College, Holmes Community College, Mississippi Delta Community College and Northwest Mississippi Community College;

(c) To organize, coordinate and support the meetings and work of the Delta Workforce Cabinet, including providing any staff support that the cabinet may request; and

(d) To perform such other duties as may be directed by the MDA.

(3) The office of the Delta Workforce Coordinator for Job Retention and Expansion shall be funded by local contributions from governmental agencies and private entities. The Delta Workforce Coordinator may receive and expend matching funds from the local county and municipal governments in the Delta region for the support of the pilot program, and any state, local or private funds available to the Mississippi Delta Area Workforce Training Project may be used by the Delta Workforce Coordinator to match any federal funds available to support the work of the pilot program.

SOURCES: Laws, 2009, ch. 471, § 2; reenacted without change, Laws, 2011, ch. 480, § 36, eff from and after passage (approved Apr. 6, 2011.)

Editor's Note — Laws of 2009, ch. 471, § 9, as amended by Laws of 2011, ch. 480, § 39, provides:

"SECTION 9. Sections 1 through 4 of this act [codified as §§ 57-107-1 through 57-107-7] shall stand repealed on July 1, 2016, and the remainder of this act [codified as §§ 57-107-101 through 57-107-107] shall stand repealed on July 1, 2011."

§ 57-107-5. Delta Workforce Cabinet creation, composition; cabinet to be representative of all areas of Delta region; review of ongoing work of office of workforce coordinator [Repealed effective July 1, 2016].

(1) There is created the Delta Workforce Cabinet, an advisory group that shall be composed of the following twelve (12) members:

(a) The President of Coahoma Community College or an employee of the college so designated by the president;

(b) The President of Holmes Community College or an employee of the college so designated by the president;

(c) The President of Mississippi Delta Community College or an employee of the college so designated by the president;

(d) The President of Northwest Mississippi Community College or an employee of the college so designated by the president;

(e) The Executive Director of MDA or an employee of MDA so designated by the executive director;

(f) The Executive Director of the Mississippi Department of Employment Security, Office of the Governor, or an employee of the department so designated by the executive director;

(g) The Director of the Delta Workforce Investment Area;

(h) Two (2) recognized Delta area business leaders to be appointed by the Speaker of the House;

(i) Two (2) recognized Delta area business leaders to be appointed by the Lieutenant Governor; and

(j) One (1) recognized Delta area business leader to be appointed by the Governor.

(2) It is the intent of the Legislature that the Delta Workforce Cabinet be constituted in such a way that all areas of the Delta region are represented, and the appointing authorities are encouraged to coordinate their appointments to achieve a balanced cabinet with representation from throughout the Delta region. Vacancies on the cabinet must be filled in the manner consistent with the original appointments.

(3) The Delta Workforce Cabinet shall meet no less than quarterly to review the ongoing work of the office of the Delta Workforce Coordinator for Job Retention and Expansion and to ensure that proper coordination of workforce services and joint cooperation are extended to existing and prospective Delta area employers on a sustaining basis.

SOURCES: Laws, 2009, ch. 471, § 3; reenacted without change, Laws, 2011, ch. 480, § 37, eff from and after passage (approved Apr. 6, 2011.)

Editor's Note — Laws of 2009, ch. 471, § 9, as amended by Laws of 2011, ch. 480, § 39, provides:
"SECTION 9. Sections 1 through 4 of this act [codified as §§ 57-107-1 through 57-107-7] shall stand repealed on July 1, 2016, and the remainder of this act [codified as §§ 57-107-101 through 57-107-107] shall stand repealed on July 1, 2011."

§ 57-107-7. Report on status of Mississippi Delta Area Workforce Training Project [Repealed effective July 1, 2016].

Before January 1, 2011, the Delta Workforce Coordinator for Job Retention and Expansion shall submit a report on behalf of the Delta Workforce Cabinet to the Legislature and Governor on the status of the Mississippi Delta Area Workforce Training Project. The report shall include, but not necessarily be limited to, a description of the activities undertaken through the pilot program and an evaluation of the project's effectiveness in accomplishing the goals of the pilot program.

SOURCES: Laws, 2009, ch. 471, § 4; reenacted without change, Laws, 2011, ch. 480, § 38, eff from and after passage (approved Apr. 6, 2011.)

Editor's Note — Laws of 2009, ch. 471, § 9, as amended by Laws of 2011, ch. 480, § 39, provides:
"SECTION 9. Sections 1 through 4 of this act [codified as §§ 57-107-1 through 57-107-7] shall stand repealed on July 1, 2016, and the remainder of this act [codified as §§ 57-107-101 through 57-107-107] shall stand repealed on July 1, 2011."

ARTICLE 3.

SOUTHWEST MISSISSIPPI AREA WORKFORCE TRAINING PROJECT [REPEALED].

§§ 57-107-101 through 57-107-107. Repealed.

Repealed by Laws, 2009, ch. 471, § 9, as amended by Laws, 2011, ch. 480, § 39, effective from and after July 1, 2011.

§ 57-107-101. [Laws, 2009, ch. 471, 5, eff from and after passage (approved Mar. 30, 2009.)]

§ 57-107-103. [Laws, 2009, ch. 471, 6, eff from and after passage (approved Mar. 30, 2009.)]

§ 57-107-105. [Laws, 2009, ch. 471, 7, eff from and after passage (approved Mar. 30, 2009.)]

§ 57-107-107. [Laws, 2009, ch. 471, 8, eff from and after passage (approved Mar. 30, 2009.)]

Editor's Note — Laws of 2009, ch. 471, § 9, as amended by Laws of 2011, ch. 480, § 39, provides:
"SECTION 9. Sections 1 through 4 of this act [codified as §§ 57-107-1 through 57-107-7] shall stand repealed on July 1, 2016, and the remainder of this act [codified as §§ 57-107-101 through 57-107-107] shall stand repealed on July 1, 2011."
Former § 57-107-101 created the Southwest Mississippi Area Workforce Training Project and provided the pilot program goals.

Former § 57-107-103 provided that the pilot program would be administered by a Southwest Mississippi Workforce Coordinator for Job Retention and Expansion.

Former § 57-107-105 related to the creation and composition of the Southwest Mississippi Workforce Cabinet.

Former § 57-107-107 required the Southwest Mississippi Workforce Coordinator for Job Retention and Expansion to submit a status report.

CHAPTER 111

Mississippi Small Business and Existing Forestry Industry Enterprise Participating Loan Program

SEC.
57-111-1. Establishment of program of loans to small businesses and existing forestry industry enterprises; purpose of program; amount of loan; interest rate; use of loan proceeds; Small Business and Existing Forestry Industry Enterprise Participating Loan Program Revolving Fund created.

§ 57-111-1. Establishment of program of loans to small businesses and existing forestry industry enterprises; purpose of program; amount of loan; interest rate; use of loan proceeds; Small Business and Existing Forestry Industry Enterprise Participating Loan Program Revolving Fund created.

(1) As used in this section:

(a) "MDA" means the Mississippi Development Authority.

(b) "Program" means the Mississippi Small Business and Existing Forestry Industry Enterprise Participating Loan Program established in this section.

(c) "Small business" means any commercial enterprise with less than one hundred (100) full-time employees, less than Seven Million Dollars ($7,000,000.00) in gross revenues or less than Seven Hundred Fifty Thousand Dollars ($750,000.00) in net annual profit after taxes.

(d) "Existing forestry industry enterprise" means a manufacturing enterprise that:

(i) Has its principal place of business in this state;

(ii) Has been operating in this state for not less than three (3) consecutive years preceding the date of submitting an application for assistance under this section;

(iii) Performs the initial processing of pine logs and/or hardwood logs in the production of lumber products or is engaged in the production of poles and/or timbers; and

(iv) Has employed an average of not less than fifteen (15) employees based on the most recent thirty-six-month period preceding the date that the enterprise submits an application for assistance under this section.

The term "existing forestry industry enterprise" does not include any (a) enterprise with the primary business of producing chips or (b) pulp manufacturer and/or paper manufacturer.

(2) The MDA shall establish a program of loans to be made to small businesses and existing forestry industry enterprises for the purpose of encouraging the extension of conventional financing and the issuance of letters of credit to small businesses and existing forestry industry enterprises by private institutions. Money to make the loans under the program shall be

drawn by the MDA from the Small Business Participating Loan Program Revolving Fund. The amount of a loan to any single small business or existing forestry industry enterprise under the program shall not exceed fifty percent (50%) of the total cost of the project for which financing is sought. Interest shall be charged on the loans at a rate equal to one percent (1%) above the current published prime rate. The term of any loan made under this section shall not exceed five (5) years. Repayments of loans made by the MDA under the program shall be deposited to the credit of the Small Business and Existing Forestry Industry Enterprise Participating Loan Program Revolving Fund. Small businesses may utilize loan proceeds for buildings, equipment and working capital. An existing forestry industry enterprise that receives a loan under this section may use the loan proceeds for the purpose of providing working capital, acquiring machinery and equipment, making upgrades and improvements to machinery and equipment, acquiring raw materials and any other purposes approved by the MDA.

(3) There is created a special fund in the State Treasury to be known as the Small Business and Existing Forestry Industry Enterprise Participating Loan Program Revolving Fund which shall consist of money from any source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Money in the fund shall be disbursed by the Mississippi Development Authority for the purposes authorized in subsection (2) of this section.

(4) Money in the fund that is derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA in providing loans under this section through the use of general obligation bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each grant by the MDA. Reimbursement of reasonable actual and necessary costs for a loan shall not exceed three percent (3%) of the proceeds of bonds issued for such loan. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

SOURCES: Laws, 2010, ch. 533, § 8, eff from and after passage (approved Apr. 16, 2010.)

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

CHAPTER 111

Mississippi Small Business and Existing Forestry Industry Enterprise Participating Loan Program

Sec.
57-111-1. Establishment of program of loans to small businesses and existing forestry industry enterprises; purpose of program; amount of loan; interest rate; use of loan proceeds; Small Business and Existing Forestry Industry Enterprise Participating Loan Program Revolving Fund created.

§ 57-111-1. Establishment of program of loans to small businesses and existing forestry industry enterprises; purpose of program; amount of loan; interest rate; use of loan proceeds; Small Business and Existing Forestry Industry Enterprise Participating Loan Program Revolving Fund created.

(1) As used in this section:

(a) "MDA" means the Mississippi Development Authority.

(b) "Program" means the Mississippi Small Business and Existing Forestry Industry Enterprise Participating Loan Program established in this section.

(c) "Small business" means any commercial enterprise with less than one hundred (100) full-time employees, less than Seven Million Dollars ($7,000,000.00) in gross revenues or less than Seven Hundred Fifty Thousand Dollars ($750,000.00) in net annual profit after taxes.

(d) "Existing forestry industry enterprise" means a manufacturing enterprise that:

(i) Has its principal place of business in this state;

(ii) Has been operating in this state for not less than three (3) consecutive years preceding the date of submitting an application for assistance under this section;

(iii) Performs the initial processing of pine logs and/or hardwood logs in the production of lumber products or is engaged in the production of poles and/or timbers; and

(iv) Has employed an average of not less than fifteen (15) employees based on the most recent thirty-six-month period preceding the date that the enterprise submits an application for assistance under this section.

The term "existing forestry industry enterprise" does not include any (a) enterprise with the primary business of producing chips or (b) pulp manufacturer and/or paper manufacturer.

(2) The MDA shall establish a program of loans to be made to small businesses and existing forestry industry enterprises for the purpose of encouraging the extension of conventional financing and the issuance of letters of credit to small businesses and existing forestry industry enterprises by private institutions. Money to make the loans under the program shall be

drawn by the MDA from the Small Business Participating Loan Program Revolving Fund. The amount of a loan to any single small business or existing forestry industry enterprise under the program shall not exceed fifty percent (50%) of the total cost of the project for which financing is sought. Interest shall be charged on the loans at a rate equal to one percent (1%) above the current published prime rate. The term of any loan made under this section shall not exceed five (5) years. Repayments of loans made by the MDA under the program shall be deposited to the credit of the Small Business and Existing Forestry Industry Enterprise Participating Loan Program Revolving Fund. Small businesses may utilize loan proceeds for buildings, equipment and working capital. An existing forestry industry enterprise that receives a loan under this section may use the loan proceeds for the purpose of providing working capital, acquiring machinery and equipment, making upgrades and improvements to machinery and equipment, acquiring raw materials and any other purposes approved by the MDA.

(3) There is created a special fund in the State Treasury to be known as the Small Business and Existing Forestry Industry Enterprise Participating Loan Program Revolving Fund which shall consist of money from any source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any investment earnings or interest earned on amounts in the fund shall be deposited to the credit of the fund. Money in the fund shall be disbursed by the Mississippi Development Authority for the purposes authorized in subsection (2) of this section.

(4) Money in the fund that is derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA in providing loans under this section through the use of general obligation bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each grant by the MDA. Reimbursement of reasonable actual and necessary costs for a loan shall not exceed three percent (3%) of the proceeds of bonds issued for such loan. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

SOURCES: Laws, 2010, ch. 533, § 8, eff from and after passage (approved Apr. 16, 2010.)

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

CHAPTER 113

Business Enterprise Tax Exemptions

Article 1. Business Enterprise Tax Exemptions: Clean Energy Generation and Aerospace Industry Enterprises 57-113-1
Article 3. Business Enterprise Tax Exemptions: Data Center Enterprises 57-113-21

ARTICLE 1.

BUSINESS ENTERPRISE TAX EXEMPTIONS: CLEAN ENERGY GENERATION AND AEROSPACE INDUSTRY ENTERPRISES.

SEC.
57-113-1. Definitions.
57-113-3. Application for tax exemptions.
57-113-5. Certification of eligibility for tax exemption; term of exemption; nontransferability of exemption; performance requirements of approved business enterprise.
57-113-7. Promulgation of rules and regulations.

§ 57-113-1. Definitions.

As used in this article:

(a) "Business enterprise" means:

(i) Any enterprise owning or operating a facility for the manufacture or assembly of systems or components used in the generation of clean energy that locates or expands in this state which will have a minimum capital investment in this state of Fifty Million Dollars ($50,000,000.00) and will create a minimum of two hundred fifty (250) new, full-time jobs.

(ii) Any enterprise owning or operating a facility that manufactures or assembles products for the aerospace industry or provides research and development or training services in the aerospace industry that locates or expands in this state, which will have a minimum capital investment in this state of Thirty Million Dollars ($30,000,000.00) and will create a minimum of one hundred (100) new, full-time jobs.

(b) "Aerospace industry" means the industry that researches, designs, manufactures, repairs, operates and/or maintains vehicles moving through the air and space.

(c) "Biomass" means and includes any of the following:

(i) Forest-related mill residues, pulping by-product and other by-products of wood processing, thinnings, slash, limbs, bark, brush and other cellulosic plant material or nonmerchantable forest-related products;

(ii) Solid wood waste materials, including dunnage, manufacturing and construction wood wastes, demolition and storm debris and landscape or right-of-way trimmings;

(iii) Agriculture wastes, including orchard tree crops, vineyard, grain, legumes, sugar and other crop by-products or residues and livestock waste nutrients;

(iv) All plant and grass material that is grown exclusively as a fuel for the production of electricity;

(v) Refuse derived fuels consisting of organic components and fibers of waste water treatment solids; or

(vi) Whole trees.

(d) "Clean energy" means energy that is generated from either:

(i) A renewable energy source such as wind, water, biomass or solar; or

(ii) An alternative energy source such as nuclear.

(e) "MDA" means the Mississippi Development Authority.

(f) "State tax" means:

(i) Any sales or use tax imposed on the business enterprise pursuant to law related to the purchase of component building materials and equipment for initial construction of facilities or expansion of facilities that are certified by the Mississippi Development Authority;

(ii) All income tax imposed pursuant to law on income earned by the business enterprise certified by the Mississippi Development Authority;

(iii) Franchise tax imposed pursuant to law on the value of capital used, invested or employed by the business enterprise certified by the Mississippi Development Authority; and

(iv) Any sales or use tax imposed on the lease of machinery and equipment acquired in the initial construction to establish the facility or for an expansion certified by the Mississippi Development Authority.

SOURCES: Laws, 2010, ch. 533, § 12, eff from and after July 1, 2010.

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

§ 57-113-3. Application for tax exemptions.

Business enterprises wishing to apply for the tax exemptions authorized by this article shall make application to the MDA prior to construction or acquisition of the buildings for the location or expansion of the business enterprise in this state. The application shall, at a minimum, contain:

(a) An overview of the project that includes the selected site, the number of jobs proposed, the length of time necessary for the company to meet its investment and employment requirements;

(b) A two-year business plan, which shall include pro forma financial statements for the project;

(c) Data supporting the expertise of the project's principals;

(d) An acknowledgment that the business entity will be required to provide annual documentation to demonstrate that the minimum job requirement is being maintained; and

(e) Such information as may be requested by the MDA.

SOURCES: Laws, 2010, ch. 533, § 13, eff from and after July 1, 2010.

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

§ 57-113-5. Certification of eligibility for tax exemption; term of exemption; nontransferability of exemption; performance requirements of approved business enterprise.

(1) Upon approval of the application, the MDA shall issue certification designating the business enterprise as eligible for the tax exemptions authorized by this article. This certification shall document the date by which all commitments must be met.

(2) Upon the issuance of the certification, the business enterprise shall be exempt from state taxes for a period of ten (10) years subject to the performance requirements set out in the agreement required by subsection (3)(c) of this section. If the business enterprise is located in an area that has been declared by the Governor to be a disaster area and as a direct result of the disaster the business enterprise is unable to utilize the exemption from state taxes, the MDA may extend the period of time by which the minimum requirements must be met and duration of the exemption from state taxes for not more than two (2) years. Any business enterprise that has property or equipment purchased utilizing the state tax exemption that is damaged or destroyed as a result of the disaster may purchase replacement equipment and component building materials exempt from sales and use tax.

(3) The following conditions, along with any other conditions the MDA shall promulgate from time to time by rule or regulation, shall apply to such exemptions:

(a) Any exemption provided under this article is nontransferable and cannot be applied, used or assigned to any other person or business or tax account without prior approval by the MDA;

(b) No approved business enterprise may claim or use the exemption granted under this article unless that enterprise is in full compliance with all state and local tax laws, and related ordinances and resolutions; and

(c) The business enterprise must enter into an agreement with the MDA which sets out, at a minimum, the performance requirements of the approved business enterprise during the term of the exemption and provisions for the recapture of all or a portion of the taxes exempted if the performance requirements of the business enterprise are not met.

(4) Upon certifying a business enterprise as eligible for the exemptions under this article, the MDA shall forward the certification along with any other necessary information to the Department of Revenue so that the exemptions can be implemented. The Department of Revenue shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation of the state tax exemptions granted under this article.

SOURCES: Laws, 2010, ch. 533, § 14, eff from and after July 1, 2010.

Editor's Note — Laws of 2010, ch. 533, § 52 provides:
"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

§ 57-113-7. Promulgation of rules and regulations.

The MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation and administration of this article.

SOURCES: Laws, 2010, ch. 533, § 15, eff from and after July 1, 2010.

Editor's Note — Laws of 2010, ch. 533, § 52 provides:
"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

ARTICLE 3.

BUSINESS ENTERPRISE TAX EXEMPTIONS: DATA CENTER ENTERPRISES.

SEC.

57-113-21. Definitions.
57-113-23. Application for tax exemptions.
57-113-25. Certification of eligibility for tax exemption; term of exemption; nontransferability of exemption; performance requirements of approved business enterprise.
57-113-27. Promulgation of rules and regulations.

§ 57-113-21. Definitions.

As used in this article:

(a) "Business enterprise" means any business enterprise owning or operating a data center with a minimum capital investment in this state of Fifty Million Dollars ($50,000,000.00) which will create a minimum of fifty (50) new, full-time jobs with a minimum average annual salary of not less than one hundred fifty percent (150%) of the average annual state wage.

(b) "Data center" means a business enterprise that utilizes hardware, software, technology, infrastructure and/or workforce, to store, manage or manipulate digital data.

(c) "MDA" means the Mississippi Development Authority.

(d) "State tax" means:

(i) Any sales and use tax imposed on the business enterprise pursuant to law related to the purchase or lease of component building materials and equipment for initial construction of facilities or expansion of facilities that are certified by the Mississippi Development Authority; and

(ii) Any sales and use tax imposed by law on the business enterprise pursuant to law related to the purchase of replacement hardware, software or other necessary technology to operate a data center.

SOURCES: Laws, 2010, ch. 533, § 16, eff from and after July 1, 2010.

Editor's Note — Laws of 2010, ch. 533, § 52 provides:
"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

§ 57-113-23. Application for tax exemptions.

Business enterprises wishing to apply for the tax exemptions authorized by this article shall make application to the MDA prior to construction or acquisition of the buildings for the location or expansion of the business enterprise in this state. The application, at a minimum, shall contain:

(a) An overview of the project that includes the selected site, the number of jobs proposed, the length of time necessary for the company to meet its investment and employment requirements;

(b) A two-year business plan, which shall include pro forma financial statements for the project and any service contracts to be performed at the Mississippi facility;

(c) Data supporting the expertise of the project's principals;

(d) An acknowledgment that the business entity will be required to provide annual documentation to demonstrate that the minimum job requirement is being maintained; and

(e) Such information as may be requested by the MDA.

SOURCES: Laws, 2010, ch. 533, § 17, eff from and after July 1, 2010.

Editor's Note — Laws of 2010, ch. 533, § 52 provides:
"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

§ 57-113-25. Certification of eligibility for tax exemption; term of exemption; nontransferability of exemption; performance requirements of approved business enterprise.

(1) Upon approval of the application, the MDA shall issue a certification designating the business enterprise as eligible for the tax exemptions authorized by this article. This certification shall document the date by which all commitments must be met.

(2) Upon the issuance of the certification, the business enterprise shall be exempt from state taxes subject to the performance requirements set out in the agreement required by subsection (3)(c) of this section.

(3) The following conditions, along with any other conditions the MDA shall promulgate from time to time by rule or regulation, shall apply to such exemptions:

(a) Any exemption provided under this article is nontransferable and cannot be applied, used or assigned to any other person or business or tax account without prior approval by the MDA;

(b) No approved business enterprise may claim or use the exemption granted under this article unless that enterprise is in full compliance with all state and local tax laws, and related ordinances and resolutions; and

(c) The business enterprise must enter into an agreement with the MDA which sets out, at a minimum, the performance requirements of the approved business enterprise during the term of the exemption and provisions for the recapture of all or a portion of the taxes exempted if the performance requirements of the business enterprise are not met.

(4) Upon certifying a business enterprise as eligible for the exemptions under this article, the MDA shall forward the certification along with any other necessary information to the Department of Revenue so that the exemptions can be implemented. The Department of Revenue shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation of the state tax exemptions granted under this article.

SOURCES: Laws, 2010, ch. 533, § 18, eff from and after July 1, 2010.

Editor's Note — Laws of 2010, ch. 533, § 52 provides:

"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

§ 57-113-27. Promulgation of rules and regulations.

The MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation and administration of this article.

SOURCES: Laws, 2010, ch. 533, § 19, eff from and after July 1, 2010.

Editor's Note — Laws of 2010, ch. 533, § 52 provides:
"SECTION 52. Sections 12 through 23 of this act shall take effect and be in force from and after July 1, 2010, Section 37 of this act shall take effect and be in force from and after January 1, 2010, and the remainder of this act shall take effect and be in force from and after its passage."

CHAPTER 115

Mississippi Small Business Investment Company Act

SEC.
57-115-1. Short title.
57-115-3. Definitions.
57-115-5. Application for small business investment credit; application for certification as small business investment company; computation of credit against investor's state premium tax liability; allocation of tax credits.
57-115-7. Requirements for maintaining certification as small business investment company; reports; distributions.
57-115-9. Annual review of small business investment companies; grounds for decertification; registration of investments for which tax credits are awarded; annual report by MDA; report contents.
57-115-11. Rules and regulations for implementation of chapter.

§ 57-115-1. Short title.

This chapter shall be known and may be cited as the Mississippi Small Business Investment Company Act.

SOURCES: Laws, 2011, ch. 524, § 1, eff from and after July 1, 2011.

§ 57-115-3. Definitions.

As used in this chapter, the following terms and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Affiliate" means:

(i) Any person who, directly or indirectly, beneficially owns, controls, or holds power to vote fifteen percent (15%) or more of the outstanding voting securities or other voting ownership interest of a Mississippi small business investment company or insurance company; and

(ii) Any person, fifteen percent (15%) or more of whose outstanding voting securities or other voting ownership interests are directly or indirectly beneficially owned, controlled, or held, with power to vote by a Mississippi small business investment company or insurance company. Notwithstanding this paragraph (a), an investment by a participating investor in a Mississippi small business investment company pursuant to an allocation of tax credits under this chapter does not cause that Mississippi small business investment company to become an affiliate of that participating investor.

(b) "Allocation date" means the date on which credits are allocated to the participating investors of a Mississippi small business investment company under this chapter.

(c) "MDA" means the Mississippi Development Authority.

(d) "Department" means the Mississippi Department of Banking and Consumer Finance.

(e) "Designated capital" means an amount of money that:

(i) Is invested by a participating investor in a Mississippi small business investment company; and

(ii) Fully funds the purchase price of a participating investor's equity interest in a Mississippi small business investment company or a qualified debt instrument issued by a Mississippi small business investment company, or both.

(f) "Mississippi small business investment company" means a partnership, corporation, trust, or limited liability company, organized on a for-profit basis, that:

(i) Has its principal office located in Mississippi or is headquartered in Mississippi;

(ii) Has as its primary business activity the investment of cash in qualified businesses; and

(iii) Is certified by the MDA as meeting the criteria described in this section to qualify as either a primary or secondary Mississippi small business investment company.

(g) "Participating investor" means any insurer that contributes designated capital pursuant to this chapter.

(h) "Person" means any natural person or entity, including, but not limited to, a corporation, general or limited partnership, trust, or limited liability company.

(i) "Qualified business" means a business that is independently owned and operated and meets all of the following requirements:

(i) It is headquartered in Mississippi, its principal business operations are located in Mississippi and at least eighty percent (80%) of its employees are located in Mississippi;

(ii) It has not more than one hundred (100) employees at the time of the first qualified investment in the business;

(iii) It is not more than ten percent (10%) engaged in:

1. Professional services provided by accountants, doctors, or lawyers;
2. Banking or lending;
3. Real estate development;
4. Retail;
5. Insurance; or
6. Making loans to or investments in a Mississippi small business investment company or an affiliate; and

(iv) It is not a franchise of and has no financial relationship with a Mississippi small business investment company or any affiliate of a Mississippi small business investment company prior to a Mississippi small business investment company's first qualified investment in the business.

A business classified as a qualified business at the time of the first qualified investment in the business will remain classified as a qualified business and may receive continuing qualified investments from any Mississippi small business investment company. Continuing investments will constitute qualified investments even though the business may not meet the definition of a qualified business at the time of such continuing investments; however, the business cannot fail to satisfy subparagraph (iii) and (iv) of this paragraph (i).

(j) "Qualified debt instrument" means a debt instrument issued by a Mississippi small business investment company that meets all of the following criteria:

(i) It is issued at par value or a premium;

(ii) It has an original maturity date of at least four (4) years from the date of issuance and a repayment schedule that is not faster than a level principal amortization over four (4) years; and

(iii) Has no interest or payment features that allow for the prepayment of interest or are tied to the profitability of the Mississippi small business investment company or the success of its investments.

(k) "Qualified distribution" means any distribution or payment by a Mississippi small business investment company in connection with the following:

(i) Reasonable costs and expenses of forming, syndicating and organizing the Mississippi small business investment company, including fees paid for professional services and the costs of financing and insuring the obligations of a Mississippi small business investment company, provided no such payment is made to more than one (1) participating investor or an affiliate or related party of a participating investor;

(ii) An annual management fee not to exceed two percent (2%) of designated capital on an annual basis to offset the costs and expenses of managing and operating a Mississippi small business investment company;

(iii) Any projected increase in federal or state taxes, including penalties and interest related to state and federal income taxes, or to the equity owners of the company resulting from the earnings or other tax liability of the company to the extent that the increase is related to the ownership, management, or operation of the company;

(iv) Reasonable and necessary fees in accordance with industry custom for ongoing professional services, including, but not limited to, legal and accounting services related to the operation of a Mississippi small business investment company, not including lobbying or governmental relations; and

(v) Payments of principal and interest to holders of qualified debt instruments issued by a Mississippi small business investment company which may be made without restriction.

(*l*) "Qualified investment" means the investment of money by a Mississippi small business investment company in a qualified business for the purchase of any debt, debt participation, equity, or hybrid security of any nature and description, including a debt instrument or security that has the characteristics of debt but which provides for conversion into equity or equity participation instruments such as options or warrants; provided that any debt, debt participation or other debt instrument or security shall have a maturity of at least three (3) years. Any repayment of a qualified investment prior to one (1) year from the date of issuance shall result in the amount of the qualified investment being reduced by fifty percent (50%) for purposes of the cumulative investment requirement set forth in Section 57-115-9(1)(c).

(m) "State premium tax liability" means any liability incurred by an insurance company under the provisions of Section 27-15-103, 27-15-109 or 27-15-123 or in the case of a repeal or a reduction by the state of the liability imposed by Section 27-15-103, 27-15-109 or 27-15-123.

SOURCES: Laws, 2011, ch. 524, § 2; Laws, 2012, ch. 570, § 1, eff from and after July 1, 2012.

§ 57-115-5. Application for small business investment credit; application for certification as small business investment company; computation of credit against investor's state premium tax liability; allocation of tax credits.

(1)(a) The MDA must provide a standardized format for applying for the Mississippi small business investment credit authorized under this chapter, and for certification as a Mississippi small business investment company.

(b) An applicant for certification as a primary Mississippi small business investment company must:

(i) File an application with the MDA which shall include a business plan detailing:

1. The approximate percentage of designated capital the applicant will invest in qualified businesses by the second, fourth and sixth anniversaries of its allocation date;

2. The industry segments listed by the North American Industrial Classification System code and percentage of designated capital in which the applicant will invest; and

3. The number of jobs that will be created or retained as a result of the applicant's investments once all designated capital has been invested. A job shall be considered created or retained if the job pays one hundred twenty-five percent (125%) of the state average annual wage and is maintained for at least three (3) years. The application shall project, at a minimum, that one (1) job shall be created or maintained for each One-Hundred and Fifty Thousand Dollars ($150,000.00) in credits awarded to the participating investors of the Mississippi small business investment company;

(ii) Pay a nonrefundable application fee of Seven Thousand Five Hundred Dollars ($7,500.00) at the time of filing the application;

(iii) Submit as part of its application an audited balance sheet that contains an unqualified opinion of an independent certified public accountant issued not more than thirty-five (35) days before the application date that states that the applicant has an equity capitalization of Five Hundred

Thousand Dollars ($500,000.00) or more in the form of unencumbered cash, marketable securities or other liquid assets; and

(iv) Have at least two (2) principals or persons, at least one (1) of which is primarily located in Mississippi, employed or engaged to manage the funds who each have a minimum of five (5) years of money management experience in the venture capital or private equity or lending industry.

(c) An applicant for certification as a secondary Mississippi small business investment company must:

(i) File an application with the MDA which shall include a business plan detailing:

1. The approximate percentage of designate capital the applicant will invest in qualified businesses by the second, fourth and sixth anniversaries of its allocation date;

2. The industry segments listed by the North American Industrial Classification System code and percentage of designated capital in which the applicant will invest; and

3. The number of jobs that will be crested or retained as a result of the applicant's investments once all designated capital has been invested. A job shall be considered created or retained if the job pays one hundred twenty-five percent ($125%) of the state average annual wage and is maintained for at least three (3) years. The application shall project, at a minimum, that one (1) job shall be created or maintained for each One-Hundred and Fifty Thousand Dollars ($150,000.00) in credits awarded to the participating investors of the Mississippi small business investment company;

(ii) Pay a nonrefundable application fee of Three Thousand Seven Hundred Fifty Dollars ($3,750.00) at the time of filing the application;

(iii) Submit as part of its application an audited balance sheet that contains an unqualified opinion of an independent certified public accountant issued not more than thirty-five (35) days before the application date that states that the applicant has an equity capitalization of One Hundred Fifty Thousand Dollars ($150,000.00) or more in the form of unencumbered cash, marketable securities or other liquid assets;

(iv) Demonstrate that fifty percent (50%) of all secondary investment company investments have been in Mississippi, and all of the applicant's employees have lived in Mississippi for at least two (2) years prior to the application being filed, and that those who are employed or engaged to manage the funds have a minimum of three (3) years of money management experience in the venture capital or private equity or lending industry; and

(v) Submit as part of its application a signed and notarized partnership agreement letter with a certified primary Mississippi small business investment company.

(d) The MDA may certify partnerships, corporations, trusts, or limited liability companies, organized on a for-profit basis, which submit an application to be designated as a Mississippi small business investment company if the applicant is located, headquartered, and licensed or registered to conduct business in Mississippi, has as its primary business activity the investment of cash in qualified businesses, and meets all of the criteria of this section.

(e) The MDA must:

(i) Review the organizational documents of each applicant for certification and the business history of each applicant;

(ii) Determine whether the applicant has satisfied all of the requirements of this section; and

(iii) Determine whether the officers and the board of directors, general partners, trustees, managers or members are trustworthy and are thoroughly acquainted with the requirements of this chapter.

(f) Within forty-five (45) days after the receipt of an application, the MDA may issue the certification or refuse the certification and may communicate in detail to the applicant the grounds for refusal, including suggestions for the removal of the grounds.

(g) The MDA must begin accepting applications to become a Mississippi small business investment company not later than August 1, 2012.

(h) Certification by the MDA and operation of a primary Mississippi small business investment company is not subject to completion of any relationship or agreement with a secondary Mississippi small business investment company, and it is not the intent of this chapter to compel any such agreement.

(2)(a) An insurance company or affiliate of an insurance company must not, directly or indirectly:

(i) Beneficially own, whether through rights, options, convertible interest, or otherwise, fifteen percent (15%) or more of the voting securities or other voting ownership interest of a Mississippi small business investment company;

(ii) Manage a Mississippi small business investment company; or

(iii) Control the direction of investments for a Mississippi small business investment company.

(b) A Mississippi small business investment company may obtain one (1) or more guaranties, indemnities, bonds, insurance policies, or other payment undertakings for the benefit of its participating investors from any entity, except that in no case can more than one (1) participating investor of a Mississippi small business investment company on an aggregate basis with all affiliates of the participating investor, be entitled to provide guaranties, indemnities, bonds, insurance policies, or other payment undertakings in favor of the participating investors of a Mississippi small business investment company and its affiliates in this state.

(c) This subsection (2) does not preclude a participating investor, insurance company or other party from exercising its legal rights and remedies, including, without limitation, interim management of a Mississippi small business investment company, in the event that a Mississippi small business investment company is in default of its statutory obligations or its contractual obligations to a participating investor, insurance company, or other party, or from monitoring a Mississippi small business investment company to ensure its compliance with this chapter or disallowing any investments that have not been approved by the MDA.

(d) The MDA may contract with an independent third party to review, investigate, and certify that the applications comply with the provisions of this chapter.

(3)(a) At the time of its investment of designated capital a participating investor shall earn a vested credit against the participating investor's state premium tax liability in an amount equal to one hundred percent (100%) of the participating investor's investment of designated capital in a Mississippi small business investment company, subject to the limits imposed by this section. From and after January 1, 2015, a participating investor may claim the credit as follows:

(i) For the 2015 taxable year, an amount equal to twenty percent (20%) of the participating investor's investment of designated capital;

(ii) For the 2016 taxable year, an amount equal to twenty percent (20%) of the participating investor's investment of designated capital;

(iii) For the 2017 taxable year, an amount equal to twenty percent (20%) of the participating investor's investment of designated capital;

(iv) For the 2018 taxable year, an amount equal to twenty percent (20%) of the participating investor's investment of designated capital; and

(v) For the 2019 taxable year, an amount equal to twenty percent (20%) of the participating investor's investment of designated capital.

(b) The credit for any taxable year cannot exceed the state premium tax liability of the participating investor for the taxable year. If the amount of the credit exceeds the state premium tax liability of the participating investor for the taxable year, the excess is an investment tax credit carryover for five (5) years from the date the credit is first able to be utilized in accordance with paragraph (a) of this subsection.

(c) Notwithstanding any provision of this chapter to the contrary, the granting of any credits against the insurance premium tax shall not affect the insurance premium tax receipts distributed pursuant to Sections 83-1-37, 83-1-39, 83-34-39, 45-11-5 and 21-29-233, which shall take priority over all other distributions of premium tax receipts and shall be calculated based upon gross insurance premium tax liability before the application of the tax credits.

(d) A participating investor claiming a credit under this chapter is not required to pay any additional retaliatory tax under Section 27-15-123 levied as a result of claiming the credit.

(e) A participating investor is not required to reduce the amount of tax pursuant to the state premium tax liability included by the participating investor in connection with ratemaking for any insurance contract written in this state because of a reduction in the participating investor's tax liability based on the tax credit allowed under this chapter.

(f) If the taxes paid by a participating investor with respect to its state premium tax liability constitute a credit against any other tax that is imposed by this state, the participating investor's credit against the other tax shall not be reduced by virtue of the reduction in the participating investor's tax liability based on the tax credit allowed under this chapter.

(g) Final decertification of a Mississippi small business investment company under this chapter prior to such Mississippi small business investment company meeting the requirements of Section 57-115-7(1)(a)(ii), shall result in the disallowance and the recapture of all of the credits allocated to its participating investors under this chapter. Once a Mississippi small business investment company has satisfied the requirements of Section 57-115-7(1)(a)(ii), any subsequent decertification shall not cause the disallowance or recapture of any credits allocated to its participating investors under this chapter.

(h) The credits allowed under this chapter are not transferable; however, a participating investor may transfer credits to an affiliated insurance company provided it gives prior written notice of such transfer to the MDA and the Department of Revenue.

(4)(a)(i) The aggregate amount of investment tax credits that may be allocated to all participating investors of Mississippi small business investment companies under this section shall not exceed Fifty Million Dollars ($50,000,000.00), and no Mississippi small business investment company, on an aggregate basis with its affiliates, may file credit allocation claims that exceed Fifty Million Dollars ($50,000.000.00).

(ii) The Fifty Million Dollars ($50,000,000.00) aggregate amount of investment tax credits shall be divided into a primary tax credit pool which may be applied for by certified primary Mississippi small business investment companies and a secondary tax credit pool which may be applied for by certified secondary Mississippi small business investment companies. The secondary tax credit pool shall be Three Million Five Hundred Thousand Dollars ($3,500,000.00) of the total Fifty Million Dollars ($50,000,000.00) aggregate amount of investment tax credits. Secondary Mississippi small business investment companies may not apply for more than One Million Seven Hundred Fifty Thousand Dollars ($1,750,000.00) worth of credits on a single application. A certified secondary Mississippi small business investment company may apply for additional tax credit allocation from the secondary tax credit pool, if the credits are available, after fifty percent (50%) of its previously allocated credits are used in qualified investments.

(iii) If there are any tax credits remaining available for allocation in the secondary tax credit pool on August 1, 2013, those available tax credits shall revert to the primary tax credit pool and be made available to primary Mississippi small business investment companies according to rules and regulations promulgated by the MDA. Prior to August 1, 2013, primary Mississippi small business investment companies, including any wholly owned subsidiary company, shall be prohibited from making application to the MDA to be additionally certified as a secondary Mississippi small business investment company and prohibited from applying for any tax credit allocation from the secondary tax credit pool. A certified primary Mississippi small business investment company may have ownership equity in a certified secondary Mississippi small business investment company, but the equity interest owned by the certified primary Mississippi small business investment company shall not exceed forty percent (40%).

(b) Credits must be allocated to investors in the order that the credit allocation claims are filed with the MDA.

(c) Any credit allocation claims filed with the MDA before the initial credit allocation claim filing date will be deemed to have been filed on the initial credit allocation claim filing date. The MDA will set the initial credit allocation claim filing date to be not less than one hundred twenty (120) days and not more than one hundred fifty (150) days after the date the MDA begins accepting applications for certification. Credit allocation claims filed on the same day with the MDA must be treated as having been filed contemporaneously.

(d) If two (2) or more Mississippi small business investment companies file credit allocation claims with the MDA on behalf of their respective participating investors on the same day and the aggregate amount of credit allocation claims exceeds the aggregate limit of credits authorized under this subsection (4) or the lesser amount of credits that remain unallocated on that day, then the credits shall be allocated among the participating investors who filed on that day on a pro rata basis with respect to the amounts claimed. The pro rata allocation for any one (1) participating investor is the product obtained by multiplying a fraction, the numerator of which is the amount of the credit allocation claim filed on behalf of a participating investor and the denominator of which is the total of all credit allocation claims filed on behalf of all participating investors on that day, by the aggregate limit of credits authorized under this subsection (4) or the lesser amount of credits that remain unallocated on that day.

(e) Within ten (10) business days after the MDA receives a credit allocation claim filed by a Mississippi small business investment company on behalf of one or more of its participating investors, the MDA may notify the Mississippi small business investment company of the amount of credits allocated to each of the participating investors of that Mississippi small business investment company. In the event a Mississippi small business investment company does not receive an investment of designated capital from each participating investor required to earn the amount of credits allocated to the participating investor within ten (10) business days of the Mississippi small business investment company's receipt of notice of allocation, then it shall notify the MDA on or before the next business day, and the credits allocated to the participating investor of the Mississippi small business investment company will be forfeited. The MDA may then reallocate those forfeited credits among the participating investors of the other

Mississippi small business investment companies on a pro rata basis with respect to the credit allocation claims filed on behalf of the participating investors. The MDA may levy a fine of not more than Fifty Thousand Dollars ($50,000.00) on any participating investor that does not invest the full amount of designated capital required to fund the credits allocated to it by the MDA in accordance with the credit allocation claim filed on its behalf.

(f) No participating investor, on an aggregate basis with its affiliates, may file an allocation claim for more than twenty-five percent (25%) of the maximum amount of investment tax credits authorized under this subsection (4), regardless of whether the claim is made in connection with one or more Mississippi small business investment companies.

SOURCES: Laws, 2011, ch. 524, § 3; Laws, 2012, ch. 570, § 2, eff from and after July 1, 2012.

§ 57-115-7. Requirements for maintaining certification as small business investment company; reports; distributions.

(1)(a) To maintain its certification, a Mississippi small business investment company must make qualified investments as follows:

(i) Within two (2) years after the allocation date, a Mississippi small business investment company must invest an amount equal to at least thirty-five percent (35%) of its designated capital in qualified investments; and

(ii) Within four (4) years after the allocation date, a Mississippi small business investment company must invest an amount equal to at least fifty percent (50%) of its designated capital in qualified investments.

(b) Before making a proposed qualified investment in a specific business, a Mississippi small business investment company must request from the MDA a written determination that the proposed investment will qualify as a qualified investment in a qualified business and comply with the Mississippi small business investment company's business plan previously approved by the MDA. The MDA must notify a Mississippi small business investment company within ten (10) business days from the receipt of a request of its determination and an explanation thereof. If the MDA determines that the proposed investment does not meet the definition of a qualified investment, qualified business or comply with the Mississippi small business investment company's business plan, the MDA may nevertheless consider the proposed investment a qualified investment or a qualified business if the MDA determines that the proposed investment will further economic development. A Mississippi small business investment company may at any time apply to the MDA to amend its business plan, which the MDA may approve if it determines that the proposed amendment will further economic development in the state.

(c) All designated capital not invested in qualified investments by a Mississippi small business investment company shall be held or invested in the manner the Mississippi small business investment company deems appropriate within the limits of this chapter. Designated capital and proceeds of designated capital returned to a Mississippi small business investment company after being originally invested in qualified investments may be invested in additional qualified investments and the investment shall count toward the requirements of paragraph (a) of this subsection (1) and of Section 57-115-9(1)(c) with respect to making investments of designated capital in qualified investments, provided that the qualified business returning the initial qualified investment of the designated capital;

(i) Returns the capital pursuant to regularly scheduled amortization payments;

(ii) Returns the capital after a change in control or sale of the company or substantially all of its assets;

(iii) Returns the capital to the Mississippi small business investment company after defaulting on the terms of the qualified investment; or

(iv) Has attracted follow-on investment equal to the amount returned to the Mississippi small business investment company from a source other that a Mississippi small business investment company.

(d)(i) If, within five (5) years after its allocation date, a Mississippi small business investment company has no longer invested at least eighty-five percent (85%) of its designated capital in qualified investments, the Mississippi small business investment company shall not be permitted to pay management fees until it has invested such amount of designated capital in qualified investments.

(ii) If within seven (7) years after its allocation date, a Mississippi small business investment company has not invested at least one hundred percent (100%) of its designated capital in qualified investments, the Mississippi small business investment company shall not be permitted to pay management fees.

(2)(a) Each Mississippi small business investment company must report the following to the MDA and the Department of Revenue:

(i) As soon as practicable after the receipt of designated capital:

1. The name of each participating investor from which the designated capital was received, and each participating investor's affiliates that may claim credits, including the insurance tax identification number of the participating investor and its affiliates, if any;

2. The amount of each participating investor's investment of designated capital; and

3. The date on which the designated capital was received;

(ii) On an annual basis, on or before January 31 of each year:

1. The amount of the Mississippi small business investment company's designated capital that remains to be invested in qualified investments at the end of the immediately preceding taxable year;

2. Whether or not the Mississippi small business investment company has invested more than fifteen percent (15%) of its total designated capital in any one (1) qualified business;

3. All qualified investments that the Mississippi small business investment company has made in the previous taxable year, including

the number of employees of each qualified business in which it has made investments at the time of the investment and as of December 1 of the preceding taxable year;

4. For any qualified business where the Mississippi small business investment company no longer has an investment, the Mississippi small business investment company must provide employment figures for that business as of the last day before the investment was terminated;

(iii) Other information that the MDA and/or the Department of Revenue may reasonably request that will help the MDA ascertain the impact of the Mississippi small business investment company program both directly and indirectly on the economy of the State of Mississippi including, but not limited to, the number of jobs created by qualified businesses that have received qualified investments; and

(iv) Within ninety (90) days after the close of its fiscal year, annual audited financial statements of the Mississippi small business investment company, which must include the opinion of an independent certified public accountant.

(b) A Mississippi small business investment company must pay to the MDA an annual, nonrefundable certification fee of Two Thousand Five Hundred Dollars ($2,500.00) on or before April 1, or Five Thousand Dollars ($5,000.00) if later. However, no annual certification fee is required if the payment date for the fee is within six (6) months of the date a Mississippi small business investment company is first certified by the MDA.

(c) Upon satisfying the requirements of subsection (1)(a)(ii) of this section, a Mississippi small business investment company shall provide notice of the satisfaction to the MDA, and the MDA shall, within sixty (60) days of receipt of the notice, either confirm that the Mississippi small business investment company has satisfied the requirements of subsection (1)(a)(ii) of this section as of that date or provide notice of noncompliance and an explanation of any existing deficiencies.

(3)(a) A Mississippi small business investment company may make qualified distributions at any time. In order for a Mississippi small business investment company to make a distribution other than a qualified distribution to its equity holders:

(i) The qualified investments of the Mississippi small business investment company must equal or exceed one hundred percent (100%) of its designated capital; and

(ii) The Mississippi small business investment company must attract follow-on investment from sources other than itself or another Mississippi small business investment company in the qualified businesses in which it made qualified investments equal to one hundred percent (100%) of its designated capital.

(b) For all distributions other than qualified distributions, if the Mississippi small business investment company has not met or exceeded the jobs creation goal agreed to by the MDA and the Mississippi small business investment company in its application, the Mississippi small business investment company shall pay all such distributions to the state as a fee until the Mississippi small business investment company has paid to the state an amount equal to the penalty amount. For purposes of this section, the penalty amount shall equal one percent (1%) of the cumulative management fees previously paid by the Mississippi small business investment company for every one percent (1%) by which a Mississippi small business investment company fails to meet the jobs creation goal agreed to by the MDA and the Mississippi small business investment company in its application.

SOURCES: Laws, 2011, ch. 524, § 4; Laws, 2012, ch. 570, § 3, eff from and after July 1, 2012.

§ 57-115-9. Annual review of small business investment companies; grounds for decertification; registration of investments for which tax credits are awarded; annual report by MDA; report contents.

(1)(a) The MDA, or at its discretion the department, shall conduct an annual review of each Mississippi small business investment company to determine if a Mississippi small business investment company is abiding by the requirements of certification and to ensure that no investment has been made in violation this chapter. The cost of the annual review must be paid by each Mississippi small business investment company according to a reasonable fee schedule adopted by the MDA and/or the department. In the event the department conducts the annual review, the department shall provide copies of the review to the MDA. The MDA shall provide copies of each Mississippi small business investment company's annual review to the Mississippi small business investment company reviewed.

(b) Any material violation of this chapter, including any material misrepresentation made to the MDA in connection with the application process, may be grounds for decertification of a Mississippi small business investment company and the disallowance of credits under this chapter, provided that in all instances the MDA shall provide notice to the Mississippi small business investment company of the grounds of the proposed decertification. The Mississippi small business investment company shall have at least one hundred twenty (120) days from receipt of notice from the MDA to remedy any violation before the decertification becomes effective.

(c) After a Mississippi small business investment company has invested an amount cumulatively equal to one hundred percent (100%) of its designated capital in qualified investments, provided that the Mississippi small business investment company has met all other requirements under this chapter as of that date, the Mississippi small business investment company shall no longer be subject to regulation by the MDA or the department or the reporting requirements under Section 57-115-7(2). Upon receiving certification by a Mississippi small business investment company that it has invested an amount equal to one hundred percent (100%) of its designated capital, the MDA must notify a Mississippi small business investment company within sixty (60) days that it has or has not met the requirements, with a reason for the determination if it has not met the requirements.

(d) The MDA must send written notice of any decertification proceedings to the Department of Revenue, the department, and to the address of each participating investor whose tax credit may be subject to recapture or forfeiture, using the address shown on the last filing submitted to the MDA.

(2) All investments by participating investors for which tax credits are awarded under this chapter must be registered or specifically exempt from registration.

(3) After January 1, 2015, the MDA must make an annual report to the Governor, the Chairman of the House Ways and Means Committee and Chairman of the Senate Finance Committee. The report must include:

(a) The number of Mississippi small business investment companies holding designated capital;

(b) The amount of designated capital invested in each Mississippi small business investment company;

(c) The cumulative amount that each Mississippi small business investment company has invested as of January 1, 2015, and the cumulative total each year thereafter;

(d) The cumulative amount of follow-on capital that the investments of each Mississippi small business investment company have created in terms of capital invested in qualified businesses at the same time or subsequent to investments made by a Mississippi small business investment company in the businesses by sources other than a Mississippi small business investment company;

(e) The total amount of investment tax credits applied for and allocated under this chapter for each year;

(f) The performance of each Mississippi small business investment company with regard to the requirements for continued certification;

(g) The classification of the companies in which each Mississippi small business investment company has invested according to industrial sector and size of company;

(h) The gross number of jobs created by investments made by each Mississippi small business investment company and the number of jobs retained;

(i) The location of the companies in which each Mississippi small business investment company has invested;

(j) Those Mississippi small business investment companies that have been decertified, including the reasons for decertification; and

(k) Other related information necessary to evaluate the effect of this chapter on economic development.

SOURCES: Laws, 2011, ch. 524, § 5; Laws, 2012, ch. 570, § 4, eff from and after July 1, 2012.

§ 57-115-11. Rules and regulations for implementation of chapter.

The MDA and the department each may promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation and administration of this chapter.

SOURCES: Laws, 2011, ch. 524, § 6, eff from and after July 1, 2011.

Cross References — Administrative Procedures Law, see §§ 25-43-1.101 et seq.

CHAPTER 117

Mississippi Health Care Industry Zone Act [Repealed effective July 1, 2022]

Sec.

57-117-1. Short title [Repealed effective July 1, 2022].
57-117-3. Definitions [Repealed effective July 1, 2022].
57-117-5. Health care industry zone requirements [Repealed effective July 1, 2022].
57-117-7. Certification of businesses and health care industry facilities as qualified buisness; exemption from certain taxes; other tax benefits [Repealed effective July 1, 2022].
57-117-9. Revocation of health care industry zone certification [Repealed effective July 1, 2022].
57-117-11. Repeal of Sections 57-117-1 through 57-117-11 [Repealed effective July 1, 2022].

§ 57-117-1. Short title [Repealed effective July 1, 2022].

This chapter shall be known and may be cited as the "Mississippi Health Care Industry Zone Act."

SOURCES: Laws, 2012, ch. 520, § 1, eff from and after July 1, 2012.

Editor's Note — For repeal of this section, see § 57-117-11.

§ 57-117-3. Definitions [Repealed effective July 1, 2022].

In this chapter:

(a) "Health care industry facility" means:

(i) A business engaged in the research and development of pharmaceuticals, biologics, biotechnology, diagnostic imaging, medical supplies, medical equipment or medicine and related manufacturing or processing, medical service providers, medical product distribution, or laboratory testing that creates a minimum of twenty-five (25) new full-time jobs and/or Ten Million Dollars ($10,000,000.00) of capital investment after July 1, 2012; or

(ii) A business that (a) is located on land owned by or leased from an academic health science center with a medical school accredited by the Liaison Committee on Medical Education and a hospital accredited by the Joint Committee on Accreditation of Healthcare Organizations and (b) creates a minimum of twenty-five (25) new jobs and/or Twenty Million Dollars ($20,000,000.00) of capital investment after July 1, 2012.

(b) "MDA" means the Mississippi Development Authority.

(c) "Health care industry zone" means a geographical area certified by the MDA as provided for in Section 57-117-5.

(d) "Local government unit" means any county or incorporated city, town or village in the State of Mississippi.

(e) "Person" means a natural person, partnership, limited liability company, association, corporation, business trust or other business entity.

(f) "Qualified business" means a business or health care industry facility that meets the requirements of Section 57-117-7 and any other requirements of this chapter.

SOURCES: Laws, 2012, ch. 520, § 2; Laws, 2013, ch. 505, § 1, eff from and after July 1, 2013.

Editor's Note — For repeal of this section, see § 57-117-11.

Amendment Notes — The 2013 amendment inserted the "(i)" designator in (a) and added (a)(ii), and made related changes.

§ 57-117-5. Health care industry zone requirements [Repealed effective July 1, 2022].

(1) The MDA may certify an area as a health care industry zone if the following requirements are met:

(a) The area is located within:

(i) Three (3) contiguous counties which have certificates of need of more than three hundred seventy-five (375) acute care hospital beds; and/or

(ii) A county which has a hospital with a minimum capital investment of Two Hundred Fifty Million Dollars ($250,000,000.00) and for which construction is completed before July 1, 2017;

(b) The health care industry facility is located within a five-mile radius of:

(i) A facility with a certificate of need for hospital beds; and/or

(ii) A university or college that is:

1. Accredited by the Southern Association of Colleges and Schools and awards degrees and/or trains workers for jobs in health care or pharmaceutical fields of study and/or work, and

2. Located along or near Mississippi Highway 67 within a master planned community as defined in Section 19-5-10; and

(c) The zoning of the local government unit, if applicable, allows the construction or operation in the proposed health care industry zone of the health care industry facility.

(2) A health care industry facility that engages in an activity for which a certificate of need is required must comply with the provisions of Section 41-7-191 in order to be certified as a qualified business.

(3) The MDA may adopt and promulgate such rules and regulations, in compliance with the Mississippi Administrative Procedures Law, as are necessary for the efficient and effective administration of this section in keeping with the purposes for which it is enacted.

SOURCES: Laws, 2012, ch. 520, § 3; Laws, 2013, ch. 505, § 2, eff from and after July 1, 2013.

Editor's Note — For repeal of this section, see § 57-117-11.

Amendment Notes — The 2013 amendment inserted the (1)(b)(i) designator and added (1)(b)(ii); inserted "if applicable" following "the local government unit" in (1)(c); added (2) and renumbered former (2) as (3); and made minor stylistic changes.

§ 57-117-7. Certification of businesses and health care industry facilities as qualified buisness; exemption from certain taxes; other tax benefits [Repealed effective July 1, 2022].

(1) Businesses and health care industry facilities shall apply to the MDA for certification as a qualified business. If the health care industry facility or business is located in a health care industry zone and meets the requirements of this chapter, the MDA shall certify it as a qualified business.

(2) A health care industry facility or business certified by the MDA as a qualified business within a health care industry zone that constructs or renovates a health care industry facility within a health care industry zone shall qualify for the following:

(a) An accelerated state income tax depreciation deduction. The accelerated depreciation deduction shall be computed by accelerating depreciation period required by Mississippi Administrative Code, to a ten-year depreciation period.

(b) A sales tax exemption as authorized in Section 27-65-101(pp).

(c) A fee-in-lieu of taxes as authorized in Section 27-31-104.

(d) An ad valorem tax exemption as authorized in Section 27-31-101.

SOURCES: Laws, 2012, ch. 520, § 4; Laws, 2013, ch. 505, § 3, eff from and after July 1, 2013.

Editor's Note — For repeal of this section, see § 57-117-11.

Amendment Notes — The 2013 amendment inserted "industry" preceding "facility within a health care industry zone" in (2).

§ 57-117-9. Revocation of health care industry zone certification [Repealed effective July 1, 2022].

If the qualified business has not created the requisite number of jobs required by this chapter, the health care industry zone certification may be revoked by MDA after five (5) years have elapsed from the effective date of certification. A revocation under this section shall not act retroactively to remove any incentives granted by this chapter.

SOURCES: Laws, 2012, ch. 520, § 5, eff from and after July 1, 2012.

Editor's Note — For repeal of this section, see § 57-117-11.

§ 57-117-11. Repeal of Sections 57-117-1 through 57-117-11 [Repealed effective July 1, 2022].

Sections 57-117-1 through 57-117-11 shall be repealed from and after July 1, 2022.

SOURCES: Laws, 2012, ch. 520, § 6, eff from and after July 1, 2012.

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